

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND

Zaria metropolis, which comprises the traditional capital city of the Zazzau emirate and its environs, a significant part of Sabon Gari Local Government, and small part of Giwa Local Government Area of Kaduna State¹, has been a home to many people of diverse ethnic, linguistic, cultural and religious backgrounds for decades² and a community where people found solace in pursuing their legitimate educational, occupational, professional, political and business interests³.

Zaria is a notable centre of learning hosting strategic federal tertiary educational, professional, commercial and military institutions⁴. It is a home to the two direct parties⁵ involved in the December 12th – 14th 2015 clashes. Zaria is also the birthplace of the leader and the headquarters of the Islamic Movement in Nigeria (IMN) and a host to many strategic Nigerian Military Units and Institutions, which have contributed to social cohesion, peaceful co-existence and the economic growth of Zaria.

The principal scene of the commencement of the above clashes between the IMN and the Nigeria Army (NA) is on the most strategic public highway, which crosses Zaria, Sabon Gari and Giwa LGAs of Kaduna State and goes all the way to Funtua in Katsina State, goes on

¹ Memo Submitted by JN1 Zaria LGA Branch, Dated Feb. 15, 2016, p. 5

² Memo Submitted by the Gyallesu Community, Dated February 2016 pp. 3-4

³ Ibid.

⁴ Memo by Zazzau Emirate Council (Undated) pp. 1-2

⁵ Memo Submitted by the Nigeria Army (9/2/2016) pp. 3-5

to Gusau, the capital of Zamfara State and ends at Sokoto, the capital of Sokoto State. It also connects with Kano/Kaduna expressway around Kwangila area in Sabon Gari LGA, Dan-Magaji and Gwargwaje in Zaria LGA as well as Jos around Kofar Doka⁶.

Between 12th and 14th December 2015, there occurred series of clashes between the Nigerian Army (**NA**) and members of Islamic Movement in Nigeria (**IMN**) in Zaria. First it emerged that members of IMN, who were conducting a "hoisting of flag ceremony" at the *Hussainiyya Baqiyyatillah*, had mounted roadblocks at strategic locations on the highway on all approaches to the *Hussainiyya Baqiyyatillah* from Samaru and at PZ railway junctions. The convoy of the Chief of Army Staff (**COAS**), that was coming from Dutse, Jigawa State to attend the Passing out Parade (**PoP**) ceremony of the 73rd regular recruits at the NA Depot, Zaria, was caught up by the blockade. Officers on the COAS entourage made attempts to persuade the IMN members to lift the barricade to enable the convoy pass to no avail which led to the forceful clearance of the roadblocks by men of the NA who resorted to the use of lethal force.

With the blockade cleared, the COAS proceeded to the Emir's palace and subsequently to the NA Depot for the ceremony. Then followed some unfolding events and actions of the IMN members thereafter coupled with the NA's assessment of some perceived threats to the life and safety of the COAS and relying on some actionable intelligence suggesting that the IMN have amassed weapons and were threatening to cause mayhem in Zaria, persuaded the NA to conduct a Cordon and

⁶ Memo by JNI, Zaria LGA Branch, Op. cit.

⁹ for the purpose of this report, the term "causes" refers to a consideration of chain of events, reaction, fundamental or ideological or doctrinal differences and prevailing aggravating conditions. Consequently, we have chosen to add what we deem are fundamental differences and prevailing environment in society leading to or aggravating conditions to take into account

Search **(C&S)** operations to maintain law and order, recover the supposed weapons and arrest the IMN leader. As a consequence, the NA carried out C&S operations during this period at *Hussainiyya Baqiyyatillah*, *Gyallesu* residence of the IMN leader and *Darul Rahma* at Dambo village.

In the wake of these operations several lives were lost, moveable and immovable properties destroyed. On 14/15 December 2015, the Kaduna State government carried out the burial of the dead in a mass grave at a cemetery along Mando road, Kaduna.

1.2 APPOINTMENTS AND MANDATE

Following the incidents (clashes) between the Nigerian Army (NA) and the Islamic Movement in Nigeria (IMN) at Zaria from the 12th -14th December, 2015 which resulted in the loss of human lives and destruction of property, the Governor of Kaduna State, pursuant to the powers vested on him by the provisions of Section 2 (1) of the Commission of Inquiry Law, Cap 34, Laws of Kaduna State, 1991, issued an order, creating the Commission, appointing the Chairman and Commissioners; as a Judicial Commission of Inquiry (JCI), to investigate the incidents. By the Judicial Commission of Inquiry (January, 2016 Zaria Clashes) Order, 2016 dated and signed by the Governor, on the 11th Day of January 2016 (**Appendix 1**), the Chairman and members were appointed as follows:

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|----|--------------------------------|---|--------------|
| 1. | Hon. Mohammed Lawal Garba, JCA | - | Chairman |
| 2. | Prof. Salisu Shehu | - | Commissioner |
| 3. | Prof. Umar Labdo | - | Commissioner |
| 4. | Dr. Salihu Abubakar | - | Commissioner |
| 5. | Prof. Auwalu Yadudu | - | Commissioner |
| 6. | Prof. Ibrahim Gambari | - | Commissioner |

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| 7. | Maj. Gen. A.A. Mshelbwala (Rtd) | - | Commissioner |
| 8. | Mr. Afakriya Gadzama | - | Commissioner |
| 9. | Brig. Gen. Aminun-Kano Maude (Rtd)* | - | Commissioner |
| 10. | Dr. Jibrin Ibrahim | - | Commissioner |
| 11. | Mrs. Khadijah Hawaja Gambo | - | Commissioner |
| 12. | Mr. Bilya Bala | - | Commissioner |
| 13. | Mrs. Desire Diseye Nsirim CP (Rtd) | - | Commissioner |

Dr. Bala Babaji was appointed as the Secretary, while Yusuf O. Ali, SAN was appointed as the Lead Counsel to the Commission. Yunus Ustaz Usman, SAN, was later appointed Associate Lead Counsel to the Commission.

The Commission was assigned the following Terms of Reference:

- a. To determine the immediate causes of the clashes;
- b. To determine the historical circumstances, surrounding and contributory factors and remote causes of the clashes;
- c. To ascertain the number of persons killed, wounded or missing during the clashes;
- d. To identify all property alleged to have been damaged or destroyed during the clashes, the owners or occupiers of such property and the values claimed by them for such damage or destruction;
- e. To identify acts of commission and omission of relevant persons, traditional and religious institutions, non-governmental, Federal and State actors and emergency response agencies before, during and after the clashes;

* Note: The Hon. Commissioner attended some of the preliminary meetings of the Commission. However, due to his prior appointment for another National Assignment Brig. Gen. Aminun-Kano Maude(Rtd) was not able to participate in the proceedings, deliberations and decisions of the Judicial Commission of Inquiry

- f. To determine whether the acts of commission and omission identified in sub-paragraph (e) above were necessary, appropriate and sufficient in the circumstances in which they occurred;
- g. To determine the evolution of the Islamic Movement in Nigeria, its legal status, organization, structure, membership, growth, assets, resources, culture and practices, and how any or all of these contributed to any engagement with the community, constituted authorities and the security agencies;
- h. To review all other factors, issues or matters, including the alleged involvement of foreign and domestic actors or their influence or instigation, that may have contributed to the incident or may conduce to such incidences in the future and make recommendations thereto;
- i. To make recommendations to the Kaduna State Government and the Federal Government as to direct or indirect responsibility for any acts of commission or omission identified in sub-paragraph (e) above;
- j. To make recommendations as to actions to be taken to ensure that administrative or criminal responsibility is further determined by the appropriate administrative or judicial authorities for any identified acts or omissions;
- k. To make recommendations as to actions to be taken, policies to be developed and implemented to ensure that acts and omissions that may have contributed or led to the clashes are pre-empted entirely or, where they occur, their negative effects are mitigated, in future;
- l. To recommend any matter for prosecution, further investigation or the convening of a separate inquiry to the appropriate Law

Enforcement Agency, Government Department or Prosecutor regarding the conduct of a certain person or persons; and

- m. To investigate any other matter incidental or relevant to these Terms of Inquiry which, in the Commission’s view, should be investigated and make any other pertinent recommendations that it deems necessary for the purpose.

The Commission was to submit its Final Report of the Inquiry to the Governor within six (6) weeks from the date of its First Public sitting.

The Commission was inaugurated by His Excellency, the Governor of Kaduna State, Malam Nasir Ahmad El-Rufai on the 29th January, 2016.

1.3 MODUS OPERANDI

The Commission held series of meetings⁷ after its inauguration to among others, streamline and agree on the modus operandi that will enhance the smooth and successful conduct of its assignment within the stipulated timeframe.

At its 29th, 30th January and 22nd March, 2016 deliberations, the following elements of the modus operandi were presented, corrected and adopted⁸:

- i. **Rules of Procedure** for the Commission relating to the sitting, attendance of proceeding, appearance, service of process, filing of processes and other documents by appearing parties, hearing of presentation/representation of person(s)/interest, evidence and general provision (**Appendix 2**).

⁷ See Minutes of Meetings from 29th Jan. to April 2016.

⁸ Ibid.

- ii. **Call for Memoranda:** There was a call for the submission of memoranda from individuals and groups both in the Public and Private Sectors with two weeks period stipulated as the duration for the submission of the memo effective from the date of publication. The memo to be delivered at the office of the Permanent Secretary, Political and Economic Affairs, Office of the Secretary to the State Government, General Hassan Usman Katsina House, Kawo, Kaduna. **(Appendix 3)**
 - iii. The following print and electronic media were identified for purposes of publishing the advertisement on the call for memo from the public:
 - a. **Print Media:** Daily Trust Newspaper, Abuja, Leadership Newspaper, Abuja, and Guardian Newspaper, Lagos.
 - b. **Electronic Media:**
 - i. **Radio:** – FRCN Kaduna, FRCN Network, Abuja, KSMC Kaduna, Nagarta Radio and Supreme FM.
 - ii. **Television:** - NTA Kaduna.
- All the above stated media outfits were to carry paid adverts on the call for memo. However, other media houses such as NTA Network, Abuja, and Foreign media outlets like BBC, VOA etc., and News Agency of Nigeria (NAN) were to carry the call as news item only.
- Accordingly, the Secretary to the Commission ensured that the call was advertised in the selected media outfits, with the closing date being 16th February, 2016, for example, the Daily Trust 2nd February, 2016 at page 40.
- iv. **Programme of Activities:** The programme of activities of the Commission were outlined as follows:-

Inaugural meeting; call for Memorandum/da – Adverts; Collection and Classification of memo; meeting to study submitted memoranda and to draw up time table for public hearing of each memo; inaugural public hearing scheduled for 22nd February, 2016 at the Banquet Hall, General Hassan Usman Katsina House, Kawo, Kaduna; visit to Locus in Quo at Zaria; Report writing and adoption; Report production, submission of final report to His Excellency the Governor of Kaduna State; and Forth-nightly report to the Governor of Kaduna State before the final report submission.⁹

- v. The following identified parties and relevant stakeholders were to be specifically invited for submission of memo: **(Appendix 4)**
 - a. Islamic Movement in Nigeria (IMN) and the Nigerian Army (NA) as direct parties;
 - b. Relevant stakeholders to submit incident reports or memo were: Inspector General of Police (IGP); Director, State Security Service (SSS); Director Military Intelligence; Commandant General, Nigeria Security and Civil Defence Corps (NSCDC); National Emergency Management Agency (NEMA); State Emergency Management Agency (SEMA); Ahmadu Bello University Teaching Hospital (ABUTH); Gambo Sawaba General Hospital, Zaria; Ahmadu Bello University (ABU), Zaria; Federal College of Education (FCE), Zaria; Zaria Local Government Council; Sabon Gari Local Government Council; Zazzau Emirate Council; Jama'atu Nasril Islam (JNI); Nigeria Supreme Council for Islamic Affairs (NSCIA); and Gyallesu Community Association, Zaria as well as from Secretary to the Kaduna State Government for guidance and information.

⁹ Ibid.

Due to the poor response to call for memo, the deadline was extended to 23rd February and same was communicated to the public through the media by the Secretary to the Commission.

vi. **Classification of Memoranda and Programme of Appearance by Parties and Witnesses:**

The various memoranda received by the Commission were classified as follows:

- a. Direct Parties: These are the IMN and the NA being the Dramatis Personae who had an encounter between the 12th and 14th December, 2015 at Zaria.
- b. Victims: These are those who lost property as a result of the clash and have demanded for compensation.
- c. Official Memoranda: These are memoranda submitted by those who took part in their official capacity either before or after the crisis e.g. the Police, SSS, ABUTH, NEMA and SEMA.
- d. Stakeholders: Memoranda from this category essentially meant to address the Terms of Reference (TOR) of the Commission. The presenters had personal or official experience with the IMN and or its activities.
- e. Eye Witnesses: These are direct eyewitnesses on either the clash between the IMN and the NA or the activities and alleged atrocities of the IMN in their communities for many years.

As directed by the Commission, the Secretariat came up with a programme of appearance for the public hearing in accordance with the above classification of memoranda.

vii. **Engagement of Research Consultants and Final Draft Report Writers:**

To address some of the Commission’s TOR, requiring in-depth study and analysis, the following experienced, committed and knowledgeable scholars in the field of Islamic History and evolution of religious movements in Nigeria and the Muslim world were engaged to write and submit research papers on the specific tasks assigned to them: Prof. AbdulRauf Mustapha,¹⁰ Oxford University, United Kingdom; Prof. Muhammad Sani Umar,¹¹ Ahmadu Bello University, Zaria; Prof. Mukhtar Umar Bunza,¹² Usman Danfodio University, Sokoto; and Prof. Baffa Aliyu Umar,¹³ Bayero University Kano.

Similarly, two report writing experts were engaged by the Commission to prepare a draft final report in consultation with the Secretariat for its due consideration. These are Prof. Muhammed Tawfiq Ladan¹⁴ and Prof. James B. Kantiok¹⁵ of ABU Zaria.

1.4 PUBLIC SITTING AND HEARING OF PRESENTATION

At the first public sitting, the Nigerian Army (NA) and other stakeholders were present and represented by learned counsel who led them. The Islamic Movement in Nigeria (IMN) was not represented before the Commission and had not submitted a memorandum. However, a letter dated 11th February, 2016 and delivered to the Secretary of the Commission on the 14th February, 2016 from akika, abashi, okoye &

¹⁰ See his expert opinion on clashes between Religious Movements and Security Agencies in Nigeria. Submitted to the Commission in April 2016.

¹¹ Same as in reference 23.

¹² See expert opinion/paper on the evolution, legal status and structure etc of IMN submitted in April 2016 to the Commission

¹³ Same as above

¹⁴ M.T. Ladan is of the Department of Public Law, Faculty of Law, A.B.U. Zaria.

¹⁵ J.B. Kantiok is of Centre for Conflict and Security Studies/Distance Learning Centre, A.B.U. Zaria.

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Mann, and signed by Festus Okoye, Esq, one of the Counsel for the Islamic Movement in Nigeria (IMN), was brought to the notice of the Commission. The contents of the letter were thus:

“Please refer to your letter with reference No. JCI/KDS/CORS/VOL.1/02 and dated the 2nd day of February 2016 and delivered to the Islamic Movement in Nigeria on the 5th day of February 2016.

As Counsel to the leader of the Islamic Movement In Nigeria, Sheikh Ibraheem Zakzaky and the Islamic Movement in Nigeria, your said letter was made available to us with the instruction to see, interview and get the necessary instruction and information from Sheikh Ibraheem Zakzaky with a view to submitting the said memorandum/da and making oral presentation before the Commission.

The lead counsel to Sheikh Ibraheem Zakzaky and the Islamic Movement in Nigeria, Femi Falana, SAN and all the counsel engaged for the purpose of the Judicial Commission of Inquiry regret to inform you that we are not in a position to submit memorandum/da on behalf of the leader of the Islamic Movement and the Islamic Movement in Nigeria. This is predicated on the fact that we have no access to and have been denied access to the leader of the Islamic Movement in Nigeria who is the leader of the Movement as well as its spokesperson and custodian of its properties.

We applied to see the leader of the Movement and made frantic efforts to be allowed access to him to no avail. Find attached to this letter request to the Inspector General of Police in that regard.

We therefore are unable to submit any form of Memorandum/da on behalf of the leader of the Movement and the Islamic Movement in Nigeria”

(Appendix 5).

On the basis of the complaint of denial of access to the IMN leader contained in the letter, which was the only reason for the IMN Counsel’s inability to submit a memo to the Commission, the lead Counsel to the Commission was directed to find out where the IMN leader was being held in official custody in order for the Commission to take appropriate and necessary action for the access to him by the IMN Counsel. The

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lead Counsel requested for and was granted two (2) days to report back to the Commission and the proceedings were accordingly adjourned to the 24th February, 2016 to enable him do so.

At the resumed public sitting of the Commission on the 24th February, 2016, in addition to Counsel for the Nigerian Army (NA) and other Stakeholders, Mr. Maxwell Kyon, Esq leading Miss Ummi Shatu Shehu, Esq, appeared for the IMN. Mr. Kyon informed the Commission that there were strong indications that the Counsel for the IMN were to have access to the IMN leader before the end of the week and so requested for an adjournment of the proceedings for a week to enable Counsel do so, file a memorandum and report back to the Commission.

All other Counsel before the Commission supported the request by Mr. Kyon, and, taking into account the initial time limit for the completion of the Inquiry and submission of the Final Report, the proceedings were further adjourned to the 29th February, 2016, for reasons given by the IMN Counsel.

On the 29th February, 2016, Mr. Maxwell Kyon and Ummi Shatu Shehu appeared for the IMN and informed the Commission that Counsel to the IMN were unable to have access to the IMN leader who was in the custody of the Department of State Security (Headquarters), Abuja and until they had access to their client, they could not submit a memorandum or continue to represent the IMN before the Commission.

On its own motion, the Commission directed its lead Counsel; Yusuf O. Ali, SAN to liaise with the Department of State Security (DSS) and facilitate access to the IMN leader by the Counsel representing the IMN since that was the only problem made known to the Commission which prevented the submission of memorandum by the IMN Counsel. The

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proceedings were then adjourned to the 7th March, 2016 for a report by Ali, SAN.

At the resumption of proceedings on the 7th March, 2016, Mr. Festus Okoye, Esq, leading Maxwell Kyon and Ummi Shatu Shehu, appeared for the IMN and notified the Commission of the inability of the team of the IMN Counsel to have access to the IMN leader even with an appointment given by the SSS. He restated that the Counsel to the IMN were ready to submit a memorandum and represent it before the Commission if they were allowed access to the leader of the IMN from whom they needed to take instructions.

In that regard, Y. O. Ali, SAN, suggested that the Hon. Attorney-General of Kaduna State and the Hon. Attorney-General of the Federation be consulted and liaised with in order to facilitate access to the IMN leader by its Counsel. Mr. Okoye associated himself with the suggestion by the Commission's lead Counsel which was supported by all other Counsel before the Commission. In the circumstances, the Commission directed Y. O. Ali, SAN to liaise with the Hon. Attorney-Generals of Kaduna State and that of the Federation to facilitate the required access to the IMN leader by its Counsel. Consequently, the Proceedings of the Commission were adjourned to 14th March, 2016 for continuation and report on the access.

On the 14th March, 2016, Maxwell Kyon, Esq, Ummi Shatu Shehu, Esq, and Martins Jacob, Esq, appeared for the IMN at the resumed proceedings of the Commission. Counsel to the Nigerian Army (NA) and other Stakeholders were present too. After a report, by Yunus U. Usman, SAN; the Associate lead Counsel to the Commission, of the inability to have access to the IMN leader and a prayer for a last opportunity for the access. Mr. Kyon acknowledged the efforts made by

the lead Counsel to the Commission to enable the IMN Counsel have access to its leader and conceded to the prayer by Yunus U. Usman, SAN. Other Counsel also supported the request for another opportunity to enable Counsel to the IMN have access to the leader. For that reason and the resolve of the Commission to provide reasonable and adequate opportunity for a fair hearing at the Inquiry, the prayer was granted and the proceedings of the Commission were once more adjourned. This was to allow effort to resolve the only problem said by the Counsel to the IMN to have prevented or made them unable to submit a memorandum to the Commission or continue their representation of the IMN before the Commission. The proceedings were adjourned to the 21st March, 2016 for continuation and the presentation of the memorandum submitted by the Nigerian Army (NA).

At the resumed public sitting of the Commission on the 21st March, 2016, all Counsel representing the Nigerian Army (NA) and other Stakeholders were present, but no Counsel appeared to represent the IMN and there was no communication from them to the Commission to excuse their absence.

Yunus U. Usman, SAN, informed the Commission that he and the lead Counsel; Y. O. Ali, SAN had secured an appointment with the DSS (which was communicated to the IMN Counsel) for access to the IMN leader by the Commission's Counsel and that of the IMN at 12 noon of the 21st March, 2016. That, since the lead Counsel to the Commission was in Abuja for the appointment, the IMN Counsel might also have gone for it and so were absent from the day's proceedings. On the foregoing ground, he applied once again for an adjournment of the proceedings to allow for the access that was responsible for all the previous adjournments in the proceedings. Other Counsel did not oppose the application.

In its Ruling, the Commission stated that:

“We have considered the unexpected application from the Counsel to the Commission for yet another adjournment of the proceedings to enable Counsel to the IMN, have access to the leader who is in official custody. It may be recalled that the Counsel to the IMN were before the Commission on the 14th March, 2016 when the proceedings were adjourned to today (21st March, 2016) for continuation with the presentation by the Nigerian Army. Counsel were to submit their memorandum by today (21st March, 2016), they have not only failed to do so, but surprisingly were absent without any communication to the Commission to excuse their absence. Although, as stated by the counsel to the Commission, they may be in Abuja for the appointment to see the leader of the IMN, Counsel owe the legal and professional duty to send one of them to appear for the proceedings of today (21st March, 2016) in order to intimate the Commission of their attendance for the appointment in Abuja. The Rules of Professional Ethics and Practice of the legal profession require them to at least formally communicate their inability to attend the proceedings that were adjourned in their presence. Be that as it may, the inability of the counsel to the IMN to have access to the leader of the IMN has been the only reason why all the previous adjournments of the proceedings were granted. Now that there are very strong indications that the Counsel to the IMN would be granted the access later today (21st March, 2016), it is reasonable to grant a short adjournment to enable it happen, in order to complete all righteousness on the need to provide every opportunity for the IMN to present its own side of the incident that the Commission is to inquire into. The Commission is accordingly inclined to and hereby grant the request by Counsel to the Commission for an adjournment, once again. The proceedings are adjourned to the 23rd March, 2016 for the presentation by the Nigerian Army”.

Though duly notified, and, were aware that the proceedings of the Commission were to continue on the 23rd March, 2016, Counsel to the IMN were again, absent and did not send any communication to the Commission to excuse their absence at the resumed public sitting on that day. All other Counsel were, as usual, present at the proceedings

and the lead Counsel to the Commission, Y.O. Ali, SAN reported that counsel to the IMN were again absent without excuse, from the prior mutually agreed appointment for both of them to be given access to the IMN leader on the 21st March, 2016 at 12.00 noon. It is expedient to set out the report by the Learned Senior Advocate as recorded:

“The proceedings for today are for the presentation by the Nigerian Army, but after the last adjournment and on the application I made on the 7th March, 2016, we carried out the directive of the Commission to liaise with the Hon. Attorney-General of the Federation and Attorney-General of Kaduna State to facilitate the access to the leader of the IMN by Counsel. The contact was made with the two (2) Hon. Attorneys-General and we eventually had a meeting with the Director-General of the State Security Services who personally called Femi Falana, SAN, on the phone in my presence. It was agreed that both Counsel to the IMN, led by Falana, SAN, and us, would be given access to the leader of the IMN on the 21st March, 2016 at 12noon. Then in the evening of 20th March, 2016, Mr. Falana, SAN called me to say that he had to be in South Africa for an urgent matter and that Mr. Festus Okoye, Esq, would join us for the access, as agreed. However, on the 21st March, 2016, around 11am, when I did not see Mr. Okoye for our meeting at 12 noon, I called him on the phone and he said he was in Kaduna. The absence of Mr. Falana, SAN and Mr. Okoye, Esq, made access to the IMN leader to be frustrated. Later, the Director General, Department of State Security Service, gave me an appointment for the next day, i.e. the 22nd March, 2016 to come and see the IMN leader since their Counsel was absent. I called my learned friend Yunusa U. Usman, SAN who was in Kaduna, to come over to Abuja for the visit to the IMN leader and we saw him along with one of his wives, as promised on the 22nd March, 2016. He told us he was not aware of the setting up of the Commission as he was held incommunicado and expressed his willingness to meet with Mr. Falana, SAN and Mr. Okoye for him to be represented before the Commission.

After our meeting with the leader of the IMN, I called Mr. Falana, SAN and he said he was to be back from South Africa by Friday; the 25th March, 2016. He

however agreed that he would be ready to meet the IMN leader on the 29th March, 2016. I also wish to state that I read on-line that Mr. Okoye held a press conference to say that they are withdrawing their appearance before the Commission. I called Mr. Falana, SAN and informed him but he expressed his surprise at that position. Mr. Okoye had earlier told me that the ultimate position they would take is with Mr. Falana, SAN, who is not aware of any withdrawal. I had also spoken to the Director-General, DSS who agreed that Mr. Falana, SAN and Mr. Okoye, Esq, would be granted access to the IMN leader on the 29th March, 2016. In these circumstances, I pray that:

- i) The Commission should not start hearing today,*
- ii) The proceedings should be adjourned to enable the IMN leader to be seen by Counsel for it to be represented before the Commission.*
- iii) The leader of the IMN expressed his desire to be heard by the Commission.*

I urge the Commission to adjourn the proceedings to 6th April, 2016 to enable the IMN Counsel confer with the leader and also submit a memo to the Commission.

In its ruling on the request for adjournment which was opposed by some Counsel, the Commission said thus:

“We have considered the facts as narrated by the lead Counsel to the Commission. In view of the fact that the leader and custodian of the IMN, whose access by Counsel to the Movement has been the only reason for all the previous adjournments of the proceedings of the Commission, has been accessed and he has expressed his desire to be heard by the Commission; difficult as it is, the Commission is inclined to grant the request by the lead Counsel, to enable him have opportunity to be heard. In these circumstances, the request for adjournment is granted and the proceedings are adjourned to the 6th April, 2016 for continuation.”

On the 6th April, 2016, the proceedings of the Commission resumed and the lead Counsel; Y.O. Ali, SAN informed the Commission that Mr. Falana, SAN had personally confirmed to him that he had met the IMN leader on the 1st April, 2016 and that he was instructed to go to the Courts to challenge the IMN leader's detention and not to put up appearance before the Commission. The learned Senior

Counsel said since the IMN and its leadership had been afforded every opportunity to come before the Commission to state its own side of the subject matter of the Commission’s inquiry, but they have chosen not to utilize it, the presentation of the memorandum by the Nigerian Army (NA) should continue as scheduled on that day. Other Counsel present supported the position.

The Commission then ruled as follows:

“It is on record that since the 1st public sitting of the Commission on the 22nd February, 2016, proceedings have been adjourned on the sole ground that the IMN Counsel did not have access to the leader of the IMN who has been in official custody. At all the adjournments granted, the Commission had made efforts to facilitate the access by Counsel to the leader of the IMN to enable them continue their appearance before the Commission and also submit a memo. Now that the Counsel have had access to the leader of the IMN made possible by the efforts of the Commission, and have decided not to continue their appearance before the Commission, but rather go to court, there is no longer any reason whatever, in waiting for the IMN to participate in the proceedings. As a party directly involved in the subject matter of the Commission’s Inquiry, the Commission cannot compel the IMN by way of summons, to appear for the purpose of presenting its own side of the incidents that happened between its members and the Nigerian Army. The Commission is satisfied that the IMN has been afforded every reasonable and adequate opportunity for a fair hearing, which it has voluntarily, freely and deliberately, through its Counsel, decided not to utilize, the Commission shall therefore proceed with the conduct of the Inquiry without it. However, the IMN even in these circumstances is not foreclosed from participating in the proceedings of the Commission in the event that it changes its decision on appearance. The Commission would be ready and willing to hear its own side of the incidents, whilst the inquiry lasts. In the result, the request by Counsel to the Commission for the continuation of the proceedings today (6th April 2016) with the presentation by the Nigerian Army is granted.”

Although the IMN was aware of the course of the Commission’s public proceedings/hearings, its decision to opt out thereof, was not changed up to the last day of the proceedings on 27th April, 2016. Even though the IMN did not submit a memorandum to the Commission, however, the Commission received a report from Amnesty International titled “*Nigeria- Unearthing the Truth: ‘Unlawful killings and mass cover-up in Zaria’*” after the conclusion of public hearing in which victims mainly from the IMN were interviewed. (**Appendix 6**)

1.5 MEMORANDA AND EXHIBITS/EVIDENCE BEFORE THE COMMISSION:

The Commission received a total of **3,578 (Hard Copies 132 and Emails 3,446)** memoranda. A total number of **102** memoranda were heard by the Commission during its proceedings. It admitted a total of **39 exhibits** and a total number of **87 witnesses** testified before the Commission.¹⁶(Appendices **7, 8** and **9** respectively).

In accordance with its mandate and Rules of Procedure,¹⁷ the Commission, after extensive deliberations, decided on Monday 4th April 2016, that parties directly involved in the Zaria clashes under investigation (IMN and NA) have been given ample opportunity to give account of what happened. While the Nigerian Army presented itself, the IMN did not as a matter of decision. That the IMN would not be foreclosed for not presenting a memo and would be entertained when it is ready to do so while the Inquiry lasts. This however, did not in anyway impair the conduct of the Inquiry.¹⁸

¹⁶ See the Commission’s record of proceedings and minutes, February – April 2016.

¹⁷ See the Commission’s 8 Chapter/7 Page adopted Rules of Procedure, 17th Feb. 2016.

¹⁸ See the Commission’s 4th Fortnightly Report Dated 28th April 2016, at p. 1, Para 1. 02.

1.6 VISIT TO LOCUS IN QUO

On 26th April 2016, the Commission visited the sites affected by the December 12th – 14th 2015 Zaria clashes, where it and other stakeholders were conducted round the following sites:

Jushi, Banzazzau, Dambo, Gyallesu, Hussainiya Headquarters of IMN and the Police Motor Traffic Division (MTD) all in Zaria and therefrom proceeded to the Mando Mass Grave site in Kaduna. It finally visited Emir of Zazzau at his Kaduna residence.

The site visits gave the Commission an insight into the type and extent of damage done and served as a guide into the memoranda submitted to the Commission. Similarly, the courtesy visit to the Emir, afforded the traditional ruler the opportunity to address the Commission on the clashes under investigation. The Commissioners further benefitted immensely from their interaction with some former Governors of Kaduna State.

1.7 CONCLUSION OF PUBLIC HEARING

The Commission concluded public hearing on 27th April 2016 at about 2:40pm at the Banquet Hall, General Hassan Usman Katsina House, Kawo, Kaduna. Learned counsel that represented the various interest groups adopted their written addresses and hoped that people would appreciate that the investigation was done honestly, fairly and balanced with a high sense of maturity and dedication to duty.

In his closing remarks, the Chairman of the Commission thanked members of the Commission, its Counsel and the Secretariat for their patience, maturity and high sense of commitment to duty. He further thanked all legal practitioners that appeared before the Commission for discharging their duty with a high sense of respect for the rule of law, dedication and discipline. He also thanked members of the press, all the

witnesses that testified before the Commission and the Government and people of Kaduna State for cooperating with the Commission to ensure its success.

1.8 SUBMISSION OF REPORTS

In line with Paragraph 9 of the Judicial Commission of Inquiry (Zaria Clashes) Order, 2016, the Commission kept to the requirement of submission to the Governor of Kaduna State interim reports on a fortnightly basis.

In arriving at its findings and recommendations contained in the final report, the Commission carefully and critically analysed the information contained in the memoranda, exhibits and other testimonies/pieces of evidence adduced before it.

1.9 METHODOLOGY OF WORK

The methodology adopted by the Commission in discharging its assignment was as follows:

- i. Members undertook a review of all memoranda relevant to its Term of Reference (TOR) which were presented at the public hearing in sworn testimonies and which were subjected to cross examination and considered various views and data derived from the informal interactions with stakeholders.
- ii. The Commission also benefitted from recourse to analyses made, views expressed and conclusions and recommendations offered by the resource persons appointed by the Commission. Based upon such rigorous analyses and synthesis, the Commission made findings and recommendations pertaining to each TOR in the subsequent Chapters.

CHAPTER TWO

TOR (A): TO DETERMINE THE IMMEDIATE CAUSES OF THE CLASHES

2.1 BACKGROUND

A careful review of the memos and presentations from stakeholders, particularly those submitted by the Nigerian Army (NA), the police, State Security Service and other security agencies as well as that submitted by Jama'atu Nasril Islam, Zaria LGA branch and commissioned research papers by Professors Baffa and Bunza outlined some of the immediate causes as discussed below. In their presentation, the Nigerian Army¹⁹ described the clash as an attack by the IMN on the convoy of the Chief of Army Staff (COAS). The NA went further to describe the action of the IMN and the detailed movement of the COAS' convoy from Dutse in Jigawa State to Zaria, the location of the clash.

The NA held the 2015 COAS' Annual Conference at Dutse from 9-12 December, 2015, coinciding with activities marking the 20th Year Coronation Anniversary Celebration of the Emir of Dutse, Alhaji Nuhu Muhammad Sanusi, which culminated in a Durbar. The Durbar coincided with the Passing-Out-Parade (POP) of the 73 Regular Recruits Intake of NA Depot in Zaria, for which the COAS was the reviewing officer. This and the fact that the COAS was invited by the Emir of Dutse to attend the Durbar necessitated rescheduling the POP time from 10:00am to 4:00pm to enable the COAS attend both events in person.

¹⁹ Memo by the Nigeria Army, 9th February 2016, Op. cit. pp 7-8

The COAS and his entourage left Dutse for Zaria at about 11:30am and arrived at about 2:20pm. However, along Sokoto Road, close to the IMN's shrine called 'Hussainiyya Baqiyyatillah', a group of suspected IMN members in their hundreds, armed with dangerous weapons, (according to the NA Memo), blocked the convoy of the COAS. Efforts were made to appeal to them to allow the COAS and his convoy passage, but they remained adamant, saying that it was only 'Mallam', meaning the leader of the movement, who could instruct them to grant access to the COAS. Specifically, the Director Military Intelligence, Provost Marshall (Army) and the Ag. Director Public Relations pleaded with them for about thirty minutes to no avail. (Exhibit 2)

The Nigeria Police in its memo recalled a phone call from the PRO of 1 Division, Nigerian Army, Kaduna to the Commissioner of Police, Kaduna State soliciting for the assistance of the police in joining to appeal to the IMN to see reason and allow safe passage for the convoy of the COAS.²⁰ The CP directed the Area Commander, Zaria to proceed to the scene and intervene as appropriate. The IMN blocked the Area Commander's passage to the COAS and despite appeal, according to the Police, refused and hurled stones at him while retreating to get reinforcements, the Area Commander heard gunshots from the crowd. Before he came back, the situation had degenerated.

The NA noted that the senior officers in the COAS convoy took considerable personal risk by leaving their vehicles and trying to persuade IMN members. After about thirty minutes, what appeared to be gunshots were heard coming from the direction of the shrine while some of the IMN members appeared to be flanking the NA delegation from the sides as if to encircle them. The Police in its Progress Report on the

²⁰ Memo Submitted by the Nigeria Police dated 26th February, 2016. Pp 1-2

investigation stated that as the face-off was going on, the IMN members had positioned themselves at strategic locations around the vicinity, and others were crawling in the overgrown grass towards the COAS' vehicle 'with the intent to attack with Petrol Bomb'. The troops responsible for the safety and security of the COAS had to act and clear the road when it became obvious that he was in danger. The NA further noted that prior to the incident, Zaria was peaceful and the team that came to receive the COAS and his entourage transited through the same route 20 minutes to the blockade without any sign of procession.

The NA also posited that the 'ambush' was pre-planned and pre-meditated with the aim of causing harm or even eliminating the COAS as the IMN members' motorcycles and cars were neatly parked and the road was littered with heavy stones and bonfires. This and the prevailing security situation in the country as well as a previous attack on the COAS in Borno State were given as the context from which the NA action of "shooting through the blockade" was taken.²¹ This was the narrative of the first phase of the events of 12th December 2015.

Following these events, the NA narrated that based on security reports they anticipated violent reactions of the sect to what had happened. The security reports they received had indicated that members of the IMN from Zaria and from surrounding States and cities were travelling to Zaria following the incident that occurred. The said security reports also indicated that the IMN had arms hidden in Zaria. The NA therefore decided it was necessary to trace, isolate and recover the arms and to secure Zaria Municipality in order to restore law and order. The General Officer Commanding (GOC) 1 Division then issued an oral order for cordon and search operation directed at three locations identified as the

²¹ Memo Submitted by the Nigeria Army, 9th February 2016. Op. cit. p 8

IMN's area of predominance. The locations are, The Husainiyya, the Gyallesu residence of the leader of the IMN and their Dembo area temple. The NA confirmed that there was no written order issued to authorise the Cordon and Search either before or after the activity. There was also no video evidence of the conduct of the Cordon and Search operation, except a clip showing part of the operation in which the Army was calling on the IMN members to come out and surrender. (Exhibit 20).

The State Security Service (SSS) in their memo²² submitted to the Commission explained that at about 2300hrs, soldiers returned to Gyallesu, apparently to arrest IMN's spiritual leader, El-Zakzaky, and to stop the movement from mobilizing its members for possible reprisal attacks. The IMN were said to have resisted the move and gunshots accompanied by chants were heard in the area for several hours, as a result of which some were killed or died. The NA reported similarly, stating that as the troops were patrolling Gyallesu area, they came under attack by the members using locally made pistols, dane guns, bows and arrows, Molotov cocktails, catapults with metal ball bearings and stones while chanting and calling others to join the 'Holy War'.²³

The Jama'atu Nasril Islam (JNI) noted in its memo that the IMN was performing the 'change of the flag ceremony', but raised questions as to what kind of flag it was as it is not the Nigerian Flag. The scene of the clash is on the most important road that crosses Zaria, Sabon Gari and Giwa Local Government Areas of Kaduna State and ended in Funtua Local Government Areas of Katsina State. The JNI was of the view that the actions of the IMN on that day was part of a pre-planned agenda as

²² Memo Submitted by the Kaduna State Command of the State Security Service (SSS) (Undated). p 7

²³ Memo Submitted by the Nigeria Army, 9th February 2016. Op. cit. p 10

actions of IMN members in such situations are always based on exclusive orders given by their leader Ibraheem El-Zakzaky.²⁴

The Villagers of Gabari have a different perspective on the event. They explained that the IMN procession might have been en route to attack them in their community. They have had tensions and clashes between their community and IMN members over the Village's Jumu'ah (Friday) Mosque. In their memo and presentation to the Commission, they asserted that the armed IMN members were specifically targeting to launch an attack on Gabari Village when the convoy of the COAS ran into their blockade.²⁵ The NA may have therefore received attacks intended for members of the Gabari community.

In identifying the factors that usually cause clashes, Prof. Bunza, an expert commissioned by the Commission²⁶ outlined a number of possible causes. They include:

- i. Fear of breach of public peace through the activities of religious movements by government. The main responsibility of states and its agencies is ensuring and maintaining of peace and order in the country. In some cases the government's intervention became necessary to avert and stop carnage emanating from inter and or intra- religious conflicts.
- ii. Ensuring and protecting sovereignty of the State in the case when that was doubted, slighted or completely rejected by a religious organization. Some extremist beliefs among the Muslims and Christians consider recognition of state emblem such as flag and coat of arm and other symbols as anti-religious. In an attempt to

²⁴ Memo Submitted by JNI Zaria LGA Branch, Op. cit.

²⁵ Memo Submitted by the Community of Gabari Village (Unguwar Dutse), Zaria. Dated 7th February, 2016. p. 4

²⁶ Bunza, Mukhtar Umar, Religious Movements and Security Agencies in Nigeria: A History of Even and Strained Relationships: Commissioned Paper for the Judicial Commission. pp. 33-35

curb their excesses and curtail the spread of subversive ideas by the security agent conflict and violence may occur.

- iii. Fear of religious practice or appropriating of any religious practice to spy for another nation or group under the guise of faith.
- iv. When religious movements resort to use of violence or took up arms against government or against innocent citizens, security agents must play their role, which sometimes require the use of force to restore normalcy.
- v. Where the religious movement as a group or its leadership takes the law into their hands by punishing or executing those perceived to have disobeyed their type of belief or tenet. Yakubu Yahaya Katsina was said to have ordered the beheading of the editor of *Fun Times* for allegedly bringing dishonor to the Prophet.
- vi. When minority religious practice attracts the anger of the majority orthodox group of the same faith. The case of Shiite against Sunni which resulted to the assassination of Sheikh Umar Danmaishiyya Sokoto, and the Adamawa, Kano Muslim Sunni Community conflict with Shiites; examples of such abound in our research and findings.
- vii. Where government failed to perform up to expectation of a state to its lawful citizens, commitment and fidelity to that polity fades away, and attempts to forcefully win the authority sets its security against the activists, especially the religious vanguards.
- viii. Previous governments history of widespread corruption after coming into power illegally by coup or rigging of election; the populace in the case of such system failure rely on their religious leadership and cleavages for security and protection, deploying security to win back legitimacy by force in most cases ignites conflicts.

Prof. Dahiru Yahya²⁷ in his memo to the commission was of the opinion that the immediate cause of the incident was that the NA simply strayed into civilian religious concourse full of youthful, exuberant, tensed up crowd under corrupt Nigerian atmosphere. He therefore did not think there was a planned attack. Also, the SSS Kaduna State Command in its report confirmed that the blockade of the road was not premeditated. This is not far-removed from Prof. Baffa's opinion while discussing IMN's relationship with the Nigerian authorities.²⁸ Prof. Yahya further posited that the hatred between Nigerian Civil Society and the 'all-corrupt' ridden uniformed government agents was intense and they needed to remove their bad eggs. He was therefore of the view that there may not have been a deliberate attempt to target the COAS who happened to be at the wrong place at the wrong time. As no member of the IMN appeared before the Commission, we had no narrative of their own understanding of what happened.

2.2 FINDINGS/OBSERVATIONS

2.2.1 Immediate Causes

Available records before the Commission indicate that the most immediate cause of the clashes of 12 - 14 December, 2015 between the Nigerian Army and IMN was the act of the road barricade mounted by the IMN on a very busy highway leading to PZ junction en route to the NA Depot at what is popularly referred to as Hussainiyya Baqiyatillah. This was reportedly on the occasion of the “hoisting of the flag ceremony” at the venue, which resulted in the ensuing verbal altercations, the "alleged" assassination attempt on Chief of Army Staff

²⁷ Memo Submitted to the Commission by Prof. Dahiru Yahya, Dated 22 February 2016. pp. 4-5

²⁸ Prof. Baffa Aliyu Umar, The Origin, Ideology, Practices, Transformation And Encounters Of The Islamic Movement In Nigeria, Commissioned Paper for the Judicial Commission. p. 17

(COAS), the forceful clearance of the blockade and shootings. The Commission found that:

- a. When the COAS convoy ran into the blockade some NA officers, the Nigeria Police and other security agents took steps and turns to persuade the IMN members to allow passage which yielded no results.
- b. It was in evidence from the testimonies of some of the officers and a video clip²⁹ trying to persuade the IMN to remove the blockade; that the NA officers noticed that they were being encircled and that there were suspected gunshots sound heard.
- c. Based upon its threat assessment, the NA felt apprehensive of the safety and security of the COAS and his convoy. Consequently, they, as the testimony of one officer stated, “shot their way through the blockade”. This resulted in casualties of 7 deaths and 10 injured IMN members as stated by the Acting Provost Marshal when testifying under cross examination before the Commission.
- d. Following the incidence of the 12th December, 2015 there was a perceived threat to the breach of law and order by the NA which in their assessment necessitated the ordering of a C&S operation as well as the arrest of the IMN leader.
- e. The oral order for the Cordon and Search Operation issued by the GOC 1 Div which led to the deployment of officers and men of the NA for operational use, was in contravention of the provisions of Section 8 of the Armed Forces Act, No 24 of 1994 which provides as follows:

²⁹ See Exhibits 2, 20 and 20 (a-d)

Operational Use of the Armed Forces

- 1. The President shall determine the operational use of the Armed Forces, but may, under general or specific directives, delegate his responsibility for day to day operational use:
 - a) of the Armed Forces to the Chief of Defence Staff;*
 - b) of the Army to the Chief of Army Staff;*
 - c) of the Navy to the Chief of Naval Staff; and*
 - d) of the Air Force to the Chief of Air Staff**
 - 2. It shall be the duty of the Chief of Defence Staff, Chief of Army Staff, the Chief of Naval Staff and the Chief of Air Staff, as the case may be, to comply with any directive given to them by the President under sub-section 1 of the Section.*
 - 3. In this Section, “Operational use of the Armed Forces” includes the operational use of the Armed Forces in Nigeria for the purpose of maintaining and securing public safety and public order.”*
- f. There is no evidence before the Commission that the order for the Cordon and Search Operation deploying members of the Armed Forces for the alleged purpose of maintaining and securing public safety and peace, was derived from any delegation of authority by the President and/or the Chief of Army Staff, as provided by these provisions.
- g. In addition, Section 218(1) and (3) of the 1999 Constitution (as amended) vests power to determine the operational use of the Armed Forces of the Federation, in the President and the discretion to, by directions in writing, delegate such power to any member of the armed forces relating to the operational use of the armed forces. There was no evidence that there was the requisite delegation by the President to the Officer who issued the oral order

for the deployment of the Officers and Men of the Nigerian Army (N.A) for the C and S operation.

2.3 RECOMMENDATIONS

- i. The IMN members should primarily be responsible for the clash and its liabilities.
- ii. Cordon and Search Operations Order as per the provisions above cannot be issued orally. It is recommended that all such orders in future should be written and lawfully procured in accordance with the law.
- iii. Cordon and Search Orders should always be accompanied by the issuance of the “Rules of Engagement” to all officers and men involved.
- iv. Operational use of the Armed Forces in dealing with civil disturbances should be very sparingly employed or ordered only in exceptional, extreme or specified circumstances to provide the necessary and required support to the police, and other civil security agencies and institutions as provided for in Section 217(c) of the Constitution.
- v. The Police and other security agencies should be well trained and equipped to deal with civil disturbances so that the Armed Forces are not regularly dragged into law enforcement activities.
- vi. All future Cordon and Search Operations should be filmed to ensure there is video evidence on how it was conducted.

CHAPTER THREE

TOR (B): TO DETERMINE THE HISTORICAL CIRCUMSTANCES, SURROUNDING AND CONTRIBUTORY FACTORS AND REMOTE CAUSES OF THE CLASHES.

3.1 BACKGROUND

The Memoranda presented, the exhibits tendered and the evidence adduced before the Commission at the public hearing showed that there were a number of contributory and remote causes to these clashes as outlined below. There are in particular a number of historical factors that pre-dated the IMN and NA clash but played a significant role in contributing to the dynamics leading to the clash. The first of these pertinent factors relate to the history of the development of the IMN movement and their leader Ibraheem El-Zakzaky.

The introduction of the IMN is very much tied to the leader, El-Zakzaky and the history of his university and post-university days. A. R. Mustapha in a commissioned paper³⁰, quoting (Falola, 1999)³¹, said of El-zakzaky:

“At the core of the rise of the IMN as a Shiite movement is Sheikh Ibraheem El-Zakzaky who played a key role in Islamic radicalisation in Nigeria, starting from his activities in the Muslim Students’ Society at Ahmadu Bello University, Zaria. He has been

³⁰ Prof. AbdulRauf Mustapha, Expert Opinion on Clashes between Religious Movements and Security Agencies in Nigeria. Commissioned paper Submitted to the Judicial Commission. p. 12

³¹ Falola, Toyin (1999), Violence in Nigeria: The Crisis of Religious Politics and Secular Ideologies. University of Rochester Press.

described as a prominent preacher and a notable critic of the government – a veteran protester.”

Ibraheem Yakubu was born to the family of late Mallam Yakubu Kwarbai in Zaria City in the year 1952/53. El-Zakzaky was an active member of the Muslim Students Society of Nigeria (MSSN) from his Secondary School days. During his university days, he was active in Islamic Unionism, the height of which saw him become the Secretary-General of the MSSN in ABU main campus 1977/78 and Vice President (International Affairs) of the MSSN National Body 1979. He organised the (in) famous ‘Islam Only’ movement which painted those two words on public buildings and roads all over Zaria and surrounding communities. This practice of the use of street signs is still visible with the IMN.³²

The activities of this movement formed by El-Zakzaky eventually led to a break away of the group from the MSSN at ABU, owing to internal differences. These activities led to his being denied his degree certificates by the University in 1980, according to testimony by the NA and the former Vice Chancellor of the University, Prof. Abdullahi Mahadi³³, after instigating students of the Federal Government College, Sokoto into revolting and refusing to sing the National Anthem, he was jailed for four years. This was the first of many arrests and detentions.

Jama’atu Tajdidil Islamiy (JTI), a part of the IMN until they split away from the group citing deviation by El-Zakzaky from the movement’s original goal presented a Memorandum to the Commission³⁴. According to their memo, JTI was categorical that the IMN, from its inception was in

³² Wikipedia article on el-Zakzaky - en.wikipedia.org/

³³ Memo submitted to the commission by Prof. Abdullahi Mahadi, CON, Dated 15th February, 2016. p. 6

³⁴ Memo submitted to the commission by Jama’atut Tajdidil Islamiy (JTI), Dated 19th February, 2016.

constant clash with all the successive governments of Nigeria from Shagari through Buhari, Babangida to Abacha as well as throughout the 4th Republic.³⁵ JTI went further to assert that from the beginning, El-Zakzaky had built the IMN on the concept that there was no peaceful way for Muslims to attain their need for Shari’a implementation in Nigeria. The transformation of El-Zakzaky’s movement to the Shiite creed did not change this outlook as originally borrowed from the 1978/79 Iranian revolution. JTI believes however that there is nothing in the Shiite creed that imposes constant confrontation with constituted authorities.³⁶ Prof. Bunza³⁷ in a commissioned paper submitted to the Commission also addressed the issue of the Iranian revolution. Ayatollah Khomeini, he explained, succeeded in ousting the President of Iran, Shah Pahlavi and instituted an Islamic Government in Iran. Indeed, Iran was declared as an Islamic Republic, following the triumph of the Islamic Revolutionary Vanguard in taking over political power in the country. The impact of this revolution shocked the entire world as it was unexpected, and had the capacity of influencing the attitude of the Muslims in the world, including of course Nigeria. That was because Imam Khomeini made it a fundamental part of his foreign policy to spread the Iranian revolutionary ideas to other Muslim countries to imitate and execute. Khomeini stated that:

“We should try to export our revolution to the (Muslim) World. We should set aside the thought that we do not export our revolution, because Islam does not regard various Islamic countries differently and is the supporter of all the oppressed people of the world. On the other hand, all the superpowers and the great powers have

³⁵ Ibid. pp. 6

³⁶ Ibid.

³⁷ Bunza, Op. cit. pp. 14

risen to destroy us. If we remain in an enclosed environment we shall definitely face defeat. When we say we want to export our revolution, we do not want to do it with swords.”³⁸

With the Iranian revolution as the backdrop, the IMN was at loggerheads with established authorities. Prof. Baffa wrote that since the ideology of IMN is anti-governmental in orientation from its inception and because its leadership and thousands of its followers have been jailed a number of times, the relationship with constituted authorities is bound to be confrontational, un-cordial, dramatic and sometimes deadly. The ideology of the IMN is to ultimately change the secular government to be Islamic. IMN does not believe in the constitutional laws of the land.³⁹

Prof. M.S. Umar⁴⁰ reports that after his student’s activism, El-Zakzaky continued to propagate IMN through tours of Nigerian towns and cities, expanding his followership, particularly in educational institutions. During these tours, El-Zakzaky and his followers clashed with Nigerian security agencies leading to their frequent detention, prosecution and imprisonment on charges of “sedition or inciting disaffection” against the Federal Government of Nigeria, or for declaring “there is no government except that of Islam”. In his official Biography on the IMN website, it is stated that El-Zakzaky has been jailed a total of nine years which he served in nine different prisons between 1987 and 1998. These include Enugu, Kiri-Kiri and Kaduna Prisons.

Professor M. S. Umar in his own commissioned paper further asserted that in the beginning, El-Zakzaky identified with the Iranian revolution for its radical rejection of the US dominance over Iran and overthrowing the

³⁸ Ramazani, R. K., *Revolutionary Iran: Challenges and Responses in the Middle East*, John Hopkins University, Press, 1987, pp. 24-25.

³⁹ Baffa, Op. cit. pp. 17

⁴⁰ Prof. M. Sani Umar, *The Origins and Evolution of the Islamic Movement in Nigeria*, Commissioned paper submitted to the Judicial Commission. pp. 8

US-Backed monarchy.⁴¹ However, he became increasingly identified with the Shia beliefs and rituals and became the main distributor of Shia literature especially *Echo of Islam* in English, *Al-Mahjuba* in Arabic, and *Sakon Musulunci* in Hausa.

Professor Philip Ostein in his unpublished research paper “The Muslim Majority in Northern Nigeria”⁴² quoted by M. S. Umar⁴³ found that the Shia label and radicalism led to two breakaway factions. The Rasulul A’azam Foundation (RAAF), which broke away in 1992, rejecting radicalism but keeping Shi’ism. The second is Jama’atu Tajdid al-Islam (JTI) referred to above which broke away from the IMN in 1994 over religious disagreements, essentially doing away with the radicalism and rejecting Shi’ism.

RAAF in its submission to the Commission accused the IMN of being excessively confrontational towards the Nigerian State, as observed by Ostein.⁴⁴ The JTI in its Memo⁴⁵ noted that the IMN espoused that they need to be rebellious against the powers that be and when strong enough, would revolt and dislodge the government of the day.

The JTI further asserted that historically, the frequent arrest and detention of El-Zakzaky made the IMN more “Paranoiac”.⁴⁶ This, coupled with the indoctrination that El-Zakzaky was a special envoy from Allah, sent as a Messiah to save the Muslim community from eternal doom, made it imperative for the Shia community to protect him from danger even at the cost of their lives. This protective attitude resulting from a psychology of fear is responsible for most steps taken by the IMN to

⁴¹ Prof. M. Sani Umar, Op. cit. pp. 9

⁴² Philip Ostein, The Muslim Majority in Northern Nigeria: Sects and Trends, unpublished research paper. p. 9

⁴³ Prof. M. Sani Umar, Op. cit. pp. 9

⁴⁴ Ostein, Op. cit. p. 9

⁴⁵ JTI, Op. cit. p. 6

⁴⁶ Ibid.

antagonize society. The IMN became populated, overtime, with youth oblivious of the historical state of fear and they transformed what was fear to arrogance and the protective measures became a show of power and invincibility, the JTI reported.⁴⁷

To illustrate this, Tudun Jukun Community sent in a memorandum and the following are excerpts from the memo:

“More boys were employed to guard the man’s home (Zakzaky) and escort him on vehicles to wherever he goes especially within Zaria. The boys, led by Ali, (Zainul Abideen) the son of Ibraheem El-Zakzaky’s physician, Dr. Mustapha became so dreaded to the residents, especially those of the immediate neighbourhood to the leader. They rushed in and out of the area on power bikes and at incredible speed; and sometimes Ali goes around polishing his pistol openly and without the slightest consideration that he lives in a society.”⁴⁸

Muazu Umar, a resident of Gyallesu between 2008 and 2015 said in a letter to the Commission, similar to the above.

“...the Shi’ites groups (Islamic Movement of “sic” Nigeria) used to handle dangerous weapons openly to frighten people without license or permit to hold such dangerous weapons. In some instances, if people talk to them, they will abuse and even threaten to kill anyone that advises them...people are not safe especially in Gyallesu where the leader resides.”⁴⁹

Many witnesses who appeared before the Commission while speaking to the question of IMN’s relation to the State and its authority referred to

⁴⁷ JTI, Op. cit. p. 7

⁴⁸ Memo submitted to the Commission by the Tudun Jukun Community, Undated. p. 3

⁴⁹ Letter written to the Commission by Muazu Umar, Dated 22nd February, 2016

El-Zakzaky's 1979 speech known as the Funtua declaration. In this speech, he chastised the colonial origins of the Nigerian State, which he accused of a long history of injustice towards Muslims. He characterised the Nigerian State as “*Taghut*”; the ungodly power that Allah has commanded Muslims not to obey. He further indicted Nigeria Muslims not only for obeying human-made laws but also for voluntarily participating in democratic elections. He ended the speech with a formal declaration:

“I declare to you all, and Allah is my Witness, that I rebel against the Constitution of Nigeria, its laws and leaders. I do not accept any one of these. Instead, I do reaffirm my faith in the Book of Allah, His Sharia, and the leadership of the Messenger of Allah”⁵⁰

Professor Sani Umar is of the view however that the IMN has shifted from the rather absolutist position expressed in the Funtua Declaration. His assessment is that the rejection of State authority as a cardinal doctrine had already declined by the early 1990s. He draws attention to El-Zakzaky's “Nigeria at 50” lecture the IMN leader accepted that:

“Whatever be the case we are now a nation called Nigeria and we are Nigerians. We share a common history of being colonised... the issue now is what next.”⁵¹

In the same speech, El-Zakzaky adds that: “We (Muslims) can run an Islamic system while they (others) on the other hand can run any system they so desire while we unite on common aspect of our federalism”
Page.

⁵⁰ “Jawabin Sheikh Zakzaki a Lokacin Waazin Funtua Declaration...”

⁵¹ Sani Umar op cit page 12

13. Indeed he goes as far as saying that “IMN will not allow itself to destroy Nigeria” see page 14; thereby distancing himself from the absolute rejection of Nigeria in the Funtua Declaration.

Nonetheless, Prof. Umar is of the view that on the whole, the IMN remained confrontational in its relations with the State and the communities they live in. According to Prof Umar, the IMN continued its habit of castigating Muslims for their supposed failure to rebel against the “ungodly power” of the secular state and their continued obedience to human-made laws, IMN appears as hostile to the Muslim communities in which it exists as with the State.⁵² Sagir’s one sentence memo to the Commission may therefore reveal a general conclusion, so many, especially among the Muslim community have reached:

“Considering the activities in (sic) Shi’ites in Nigeria, I am on (sic) the opinion that this sect has to be banned or its activities be regulated.”⁵³

A typical example is in the memo submitted by Muhammad Awwal Yola where he said of the IMN headed by Amir Abdurrahman Bekaji in Adamawa State that:

“...(IMN does not respect any constitutional authority on several occasions while engaging in their Ashura Muzaharah (Demonstration)...both the Muslims and others of different religions are expecting to go on their business without hardship...the IMN will start their demonstration...blocking the high way. The implication of this demonstration is that, they create unpleasant artificial hardship on virtually every citizens dwelling

⁵² M. S. Umar, Op. cit. p. 25

⁵³ Sagir Sabiu’s mail to the Commission, Date received February 16, 2016

along or doing their business in the Yola metropolis(s)...Their activities of that day strongly frightens many people especially the non-indigenes from southern Nigeria”⁵⁴

The Gyallesu Community in its memo wrote:

“...even at the palace mosque, where the Emir (of Zazzau) prayed, Muhammad Lawal Ibraheem, a follower of Zakzaki does many Juma’at sermons in which he has been quoted saying ‘muna kiran ku da ku goyi bayan wannan gwagwarmaya tamu domin in ba haka ba to wata rana zamu tono fitinar da sai ta shafi kowa.”
{Calling therefore on the people to join their struggle or suffer untold consequences.}

Furthermore, the Shi’ism that IMN embraces and preaches includes beliefs that disparage some of the companions of the Prophet Muhammad that are revered by the majority of Muslims who are not Shia.⁵⁵

Local Branches of the IMN go to Friday Mosques (as in the Gabari Community⁵⁶) preaching their religious beliefs and expressing their political opinions on any number of issues, replicating same at the two *Eids* (commemorating the end of Ramadan and the feast of Sacrifices). Though they are a distraction, most people ignore them. But there have been confrontations that turned violent as a result of “unacceptable” utterances or disrupting (the official Friday sermon) conduct of the IMN preachers.

The strong conviction in the righteousness of its beliefs, rituals and political activism seems to have blinded IMN to the fact that the majority

⁵⁴ Memo submitted to the Commission by Muhammad Awwal Yola. p. 3

⁵⁵ M. S. Umar, Op. cit. p. 25

⁵⁶ Memo submitted by Gabari Community, Op. cit.

of Muslims don't accept that self-righteousness. In an interview with Aminiya⁵⁷, the Katsina leader of IMN Mallam Yahaya Katsina was seemingly at loss regarding why people do not appreciate the religious importance that IMN attaches to its frequent processions and street demonstrations, seeming oblivious of the aggravation and inconveniences that those processions and demonstrations have been creating for other people as shown for example by the memo from the Gyallesu community cited above.

One of the recurrent sources of conflict with local communities is the inability of the IMN to recognize the principle that their right to procession as a religious duty stops where the rights of other people as road users starts. The Muslim Solidarity Forum Sokoto in its memo cited:

“On 17th of February, 2005, members of the sect (IMN) murdered one young man in cold blood by the name of Murtala Umar, aged around 11 near the Sultan's Palace in an area called ‘Yar Iraqi’ during one of their processions”⁵⁸

The IMN leader's immediate neighbours, the Gyallesu community complained bitterly about the daily humiliation and harassment they have been suffering since El-Zakzaky moved into the neighbourhood, accusing the IMN of erecting illegal barricades and forcing residents to submit to bodily search before they could pass by the residence. The Gyallesu community's memo contained such accounts. Excerpts:

“...road blocks are usually erected at four different positions within a half kilometre long road that led to Zakzaki's house, and of course the other tar (sic) road that leads to the second gate of the Federal College of Education, Zaria. Hoodlums holding dangerous

⁵⁷ Aminiya, Front Page, January 08, 2016, “Ba za a yi amfani da mu a tarwatsa kasar nan ba – ‘Yan Shia”

⁵⁸ Memo submitted to the Commission by Muslim Solidarity Forum Sokoto, Undated. p. 3

*sticks, with either bows and arrows or catapults hanging dangerous(ly) around their necks were placed at each of the points to monitor situation and residents are usually rudely asked to step out of their vehicles for a routine body and vehicle check...*⁵⁹

Claims are rife that El-Zakzaky orders IMN's HURRAS or Guards to arrest local residents for alleged offences such as not giving way to his entourage, prosecute the arrested persons in his court, pass and execute judgment against them, including death penalty. Appeals and complaints to the traditional authorities including the Emir of Zazzau and the local DPOs have consistently failed to curtail the unwanted impositions on his neighbours. A Gyallesu resident Abdulmumin Magaji wrote in Hausa to the Commission.⁶⁰ In his submission, he narrated that he lost his wife after she collapsed on seeing her injured father who was bleeding profusely as a result of an attack by the IMN members. He further asserted that the IMN had a list of those they had passed the death sentence on and his son Jafaru was on the list. Muhammad Inuwa Sheshi, another resident of Gyallesu reported in his memo⁶¹ when a female member of the IMN demanded the removal of speed control stones put on the road to control traffic as a result of road construction on 25/12/2013. The ensuing arguments came to a head when IMN boys came with wheelbarrows to pack the stones but were stopped. He reported that a car filled with weapons such as cutlasses, arrived the scene and the boys began an all-out assault on the people on the streets forcing abandonment of shops. One Ishaq Bala, known as Madakin Gyallesu, reportedly lost his life and suffered fatal injuries which led to his death and his property damaged. The Tudun Wada Divisional

⁵⁹ Gyallesu Community, Op. cit. p. 14

⁶⁰ Memo submitted by Abdulmumin Magaji to the Commission, Dated 12th February, 2016.

⁶¹ Memo submitted by Muhammad Inuwa Sheshi, Dated 4th February, 2016.

Police Headquarters was called and they said there is nothing they could do so people should protect themselves. Some local residents, left with no option, moved out of the neighbourhood.⁶² Frustration has led to violent clashes between followers of IMN and local youths in the neighbourhood.⁶³

At the centre of the confrontation between the IMN and the Government or Public Forces is the HURRAS or Guards modelled after Khomeini and Iran’s revolutionary guards. The Hurras, according to the JTI memo⁶⁴, are in the forefront of every Muzahara (March, Procession, Demonstration) and Confrontation. The question left to be answered is what form of (if any) training, military or otherwise did they receive.

Prof M. S. Umar quoted⁶⁵ Jacob Zenn who quoted in his article “The Islamic Movement and Iranian Intelligence activities in Nigeria”⁶⁶ an Iranian diplomat who described IMN as an “Iranian Proxy”. Zenn’s claim that “IMN’s charismatic leadership and Northern Nigeria’s attraction to revivalist Islam enables Iran to spread “Khomeinism” in Nigeria” and that “IMN exploits this extremist-prone environment to extend its message to Shia and Sunnis, including members who joined movements such as Boko-Haram” is only surpassed by his (Zenn’s) charge that “Iran’s Quds Force and Hizbollah’s global operations have involved Nigeria for more than a decade, but their activities were exposed in October 2010.” This raised serious questions on the extent of the training the IMN’s Hurras underwent or are undergoing.

⁶² Gyallesu Community, Op. cit. Appendix 4

⁶³ Gyallesu Community, Op. cit. p. 20

⁶⁴ JTI, Op. cit. p. 8

⁶⁵ M. S. Umar, Op. cit. p. 22

⁶⁶ Jacob Zenn, “The Islamic Movement and Iranian Intelligence Activities in Nigeria” *CTC Sentinel*, Vol 6, Issue 10, October 2010. pp. 12-16

The IMN in all is not also solely responsible for all past clashes and there exist a couple of enabling factors that smoothened the way for these clashes.

- a. The authorities’ response has been either to ignore the IMN’s excesses or wrongly try to court them as allies for political gain. While the military governments have been forceful in their treatment of the IMN as is the example of the Col. Hameed Ali-led Kaduna State Military Government’s clash with IMN, arrest, prosecution, incarceration of El-Zakzaky and the demolition of his Shi’ite centre in Kwarbai Area of Zaria; the subsequent governments have been either submissive to the Shia cause.⁴⁹
- b. In Kano, Boko Haram attacks on the late Emir, Ado Bayero and other places led the Kano State Government to impose a law banning two or more people riding a motorcycle at a time – while placing a 6pm to 6am curfew on motorcycles. Shi’ites however, flouted this rule and – roamed freely carrying flags and wearing black attires – and were simply left to enjoy their free rides without let or hindrance by the security agents. The Kano Government also stopped all sorts of public rallies and religious gatherings especially at night, the Shi’ites however were seemingly exempt as their programmes and activities continued unchallenged.⁶⁷
- c. Security Agencies, especially the Police, allowed the continuation of illegal marches, gatherings as well as public display of local weapons. The agencies watched as citizens were subjected to a lot of embarrassments and discomfort and their rights were being infringed upon.⁶⁸ The Commission received copies of complaints by residents of Gyallesu to the Police and a number of Individual

⁶⁷ JTI, Op. cit. p. 11

⁶⁸ JTI, Op. cit. p. 12

reports/memos on the infringements suffered by persons during IMNs trademark processions including the “Tattaki”, the symbolic trek to mark the end of 40 days of commemoration of Imam Hussain’s martyrdom, which ends with convergence at the Hussainiyyah. Reports were lodged with police reporting illegal occupation of mosques and other activities that breach peace and lead to loss of lives and properties. The Commission received copies of some of such reports of inaction by the Police, inadequate monitoring of the skeletal actions taken and show of surrender to the IMNs lawlessness has only emboldened the movement. The JTI reports highway blockades, traffic jams, accidents, occupation of schools and other public buildings for rest and conveniences disrupting normal activities. All these were done with no proper permission sought and security agencies never acted.⁶⁹

They believe that support from Lebanese and Iranian communities and embassies have been enjoyed by the IMN. The building of the Hussainiyyah and funding of the IMN was done, according to them, chiefly using Iranian Funds. These groups, in the wake of the clash organized world press conferences to give total support to the IMN and blame the army and government entirely, reports JTI.⁷⁰ These, and widespread media presence and the use of Iran’s state-owned Press TV to spread the story of the clash lend credence to the suspicions of an Iranian Government involvement with IMN. A pointer to the group’s allegiance and dependence on Iran is the alleged hoisting of the Iranian

⁶⁹ Ibid.

⁷⁰ JTI, Op. cit. p. 13

national⁷¹ flag as against Nigeria’s and when El-Zakzaky’s house was besieged; his place of call for assistance was Iran observed the JNI.

3.2 FINDINGS/OBSERVATIONS

3.2.1 Historical Circumstances

From the available evidence received by the Commission, especially the memo submitted by the Nigerian Army, that of Kaduna State Command of the SSS, Commissioned Research Papers by Professors M. S. Umar and M. U. Bunza, A. R. Mustapha and Baffa A. Umar the following historical circumstances were adduced:

- i. The IMN has been steadfast and deliberate in refusing to recognise the legitimacy, authority and the Constitution of the Nigerian State. They have operated outside the laws of the State and the Funtua Declaration is their flagship enunciation of the ideology of confrontation with the Nigerian State, its legal system and its security agencies. The result has been a long tradition of IMN refusal to respect, observe and comply with the laws of the country.
- ii. The IMN also has a long tradition of confrontation with its immediate community and in particular the Sunni Muslim community. They show disrespect to the Companions, Sahaba of Prophet Muhammad (PBUH), engage in preaching routines other Muslims find insulting and provocative and engage in activities seeking to take over mosques built and operated by other Muslim groups.
- iii. Evidence adduced before the Commission depicts the fact of recurrent confrontational stance of the IMN to political and

⁷¹ JNi, Op. cit. p. 11

military authorities, law enforcement and security agencies as well as traditional rulers and community leaders in Zaria metropolis and other parts of Kaduna State and beyond.⁷² The cause for this confrontational stance is founded on the political ideological peculiarity of the Iranian Shiite adherents, including the leadership and members of IMN. As already cited above, the commissioned research papers by Prof. Bunza and Umar attest to this.

- iv. The clash was facilitated by a history of poor management of religious pluralism, rising intolerance and extremism by political, traditional and religious leaders at all levels of governance in Nigeria. Evidence adduced before the Commission indicate that this serious lapse on the part of constituted authorities breeds unhealthy rivalry and competition between Muslims and Christians, on the one hand, in trying to imprint their values and interests on the Nigerian State; on the other hand, this lapse promotes unhealthy competition between the Shiite IMN religious minority and the majority Sunni Muslims, consequently resulting into mutual suspicion, mistrust, distrust and intolerance, at times degenerating into conflict and violence that threaten the corporate existence, peace and security of the Nigerian Federation.⁷³
- v. Lack of decisive and proactive action/measures by constituted authorities to address series of complaints (both oral and written) by residents of Zaria metropolis in respect of alleged acts of lawlessness and flagrant violations of the rights of fellow

⁷² Memoranda submitted to the Commission by the following:- The Gyallesu Community (Feb. 2016) at pp. 19-20; Gyallesu Youth Development Association (Feb. 2016) at pp. 5-9; Nigeria Security and Civil Defence Corps, Op. cit.

⁷³ Ibid; Memo submitted to the Commission by the JNI (National Headquarters, Kaduna) (Feb. 19th, 2016) at pp. 4-13; Commissioned paper by Umar, B.A., Op. cit, at pp. 16-17

Nigerians by the IMN Sect. Available records with the Commission indicate a historical trend of IMN's engagement in illegal road traffic functions, illegal road blocks, imposition of illegal curfews and checkpoints in and around Gyallesu area, where the IMN leader resides, which hinders the freedom of movement for innocent residents of the area; causing obstruction of traffic for commuters and other road users. Had constituted authorities nipped these actions in the bud by the diligent prosecution of offences, IMN members would not have had the confidence to continue with their illegal activities.

- vi. Evidence was also adduced to demonstrate the IMN members' perpetual conflict with local communities and forceful takeover or appropriation of mosques not belonging to them has been a major trigger of conflicts. For example, the encounter between IMN with non-members over the use of a mosque that did not belong to them at Gabari village, Zaria LGA, Wanka, Soba LGA, Ahmadu Bello University, Main Campus, Samaru Central Mosque in Kaduna State and Rogo town in Kano State which occurred in the days preceding the December 12 – 14, 2015 clashes, were the most poignant cases in point in Zaria and environs. These were supported by testimonies to show how the IMN forcefully took over from the Imam of a Tijjaniyya mosque at Wanka in Soba LGA of Kaduna State about how the community and him struggled with IMN who took over their mosque and all the conciliatory efforts facilitated by the District Head were spurned and disregarded by the IMN members. In a memo and during his testimony, by Prof. Abdullahi Mahdi, narrated how authorities at ABU, Zaria experienced in the eighties the invasion of the mosque on the main campus by

IMN members. The lapse on the part of constituted authorities in treating complaints and taking actions decisively on culprits aggravates the agony, frustration and helplessness of Zaria residents, and heightens the level of lawlessness in the affected communities.

3.2.2 REMOTE CAUSES

- i. Widespread and habitual acts of lawlessness and defiance of constituted authorities across the nation by IMN members such as takeover of highways and blockades, besieging of police posts, invasion of court premises, refusal to submit to ordinary security checks to which all other members of society are subject.
- ii. The Commission notes that Section 38 (1) and 41 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) provides guarantees for the Freedom of Religion and Freedom of Movement respectively, however with limitations as provided for under S.45. In their activities, IMN members show no respect for such limitations.
- iii. The frequent local and countrywide processions, ceremonies and other forms of activities, which are unregulated, held without permission and in total disregard to law and order cause grave hardship and inconveniences to members of the public and bring the IMN members into conflict with the communities they live with.
- iv. The failure, reluctance or sheer inability of the State and its security agencies to maintain law and order or hold the IMN members to account for recurring and widespread acts of lawlessness, disobedience to constituted authorities is an

important factor leading to the clash of December 12 to 14 2015.⁷⁴

- v. The social conditions in society, poverty, the youth bulge and unemployment played a role in creating the conditions for violent conflict.⁷⁵ In the Commissioned Research Paper by Prof. A. R. Mustapha, he specifically stated that there is an economic dimension to the generation of crises and conflicts in Nigeria. Citing Governor Kashim Shettima of Borno State who said that in Northern Nigeria as a whole, there is a direct correlation between the ethno-religious strife and the closure of textile mills, between the closure of tin mines in Jos and the ethno-religious conflicts on the Plateau. Even the cattle rustling have a direct link with the economic realities on the ground and the sooner Nigeria wakes up to these challenges, the better for all of us. The Multi-Dimensional Poverty Index (MPI) calculated by the Oxford University shows that poverty is more pronounced in many northern states. The rapid and extensive growth and the development of the IMN in Northern Nigeria might have benefitted from the pull factor of youth becoming disenchanted with the way the modern governments have been unable to address their needs and their consequent search for an alternative system.
- vi. The IMN has grown from a small group of young men to a mass organisation openly defying constituted authorities in full public view without any challenge by government and its security agencies is an indicator of State failure. It is that deficit of State authority that gave the IMN the confidence to force a former

⁷⁴ See Memo by Gyallesu Community; Memo by Gyallesu Youth Development Association; Zauren Hadin Kan Malamai (Coalition of Ulama and Civil Organizations Kano State) “*Kabi Turi ko kayi Turi*”

⁷⁵ See Research paper by Prof. M. U. Bunza page 35; Memo by Hon. Muhammed Ali, page 2.

Governor of Kaduna State, the Chief Security Officer of the State, to get down from his car and walk on orders of the IMN Hurras security outfit. Nature abhors a vacuum and when the State does not exercise its authority, non-State organs take over. In addition to State failure to exercise its authority, the State also failed to engage the IMN constructively. Submissions by Zauren Hadin Kan Malamai (Coalition of Ulama and Civil Organizations Kano State), the Gyallesu Community, Zaria; and the testimony of Isa Adamu all point to numerous reports and calls for government intervention in attacks, intimidation and sometimes murders of members of such communities without government taking any proactive steps either to stop the menace of the IMN or engaging them in a more constructive manner.

- vii. State failure to address the confrontation and illegal activities of the IMN is particularly grave because of the alleged foreign indoctrination, political, financial support and instigation that have accompanied the development of the organisation.⁷⁶ Publications such as the Echo of Islam, Mahjubah, Sakon Musulunci (Hausa Version of Mahjubah) have over time reported on the significant flow of Nigerian students into Iranian religious institutions in Qum and other places in the country. Our interaction with a former Nigerian Ambassador to Iran also revealed the presence of numerous Nigerian students in Iran with long-term scholarships from various Iranian religious institutions. While young Nigerians have the right to receive foreign scholarships from foreign religious institutions, the fact

⁷⁶ see Publications such as: Echo of Islam, Mahjubah, Sakon Musulunci(Hausa Version of Mahjubah); Influx of Nigerian students into the religious institutions in Qum, Iran; Report of covert funding/financial support (Memo by Hon. Muhd Ali, Prof. Abdullahi Mahadi and the informal interactions by the Commission/diplomatic sources.

that some of the said institutions in Iran have been widely reported to be training the youth for “revolutionary action” similar to what had happened in Iran should have raised serious security concerns and a coherent national policy response to ensure that the strategic interests of Nigeria are not compromised.

3.2.3 OTHER CONTRIBUTORY FACTORS

- i. There is a core religious factor that contributed to the clash of December 2015. We have already referred to the IMN espousal of the doctrine or posture, which dictates and glorifies rejection of the Sunni Islam. The memoranda by Zauren Hadin Kan Malamai (Coalition of Ulama and Civil Organizations Kano State); Jama’atu Tajdidil Islamiy. Statements of Yakubu Yahaya from video clip wherein the leader was seen to disparage some companions of the Prophet calling them cowards and alleging that they had poisoned the Prophet Muhammad (SAW); the testimony of Muhammad Habibu Sabari of the Department of Accounting ABU Zaria, in which he testified that IMN members, in a very provocative manner, were in the habit of portraying Aisha, the wife of the Prophet, during their processions as a bitch dressed in black attire.; (see video clip admitted as exhibit 31 and 31 A) in which El-Zakzaky disparaged some companions of the Prophet as cowards who had abandoned the Prophet by deserting him at the battle fields also confirmed some of the doctrines preached by the IMN which all point out to the possible intensification of intra-Muslim conflicts, which is very worrying. The core issue the testimonies draw attention to

is the manifest disrespect of the belief and practices of Sunni Islam.

- ii. There is an international dimension to the Commission’s findings. Interactions with some diplomats and other stakeholders has drawn attention to circumstantial, although not verified, allegations that the IMN has been in close association with militant Shiite movements - in particular the Hezbollah group in Lebanon and has enjoyed financial and political support from a foreign power, Iran. Evidence was adduced to point out that the Iranian President had sought to directly intervene in the internal affairs of Nigeria by calling President Buhari to demand for the release of Sheikh Ibraheem El-Zakzaky. The Iranian Ambassador to Nigeria was reported to back up such demand through the issuance of press statements in the days following the events of December 12 – 14, 2015. The Commission has viewed a video clip showing provocative and inciting statements about Nigeria by Sheikh Nasrullah, the leader of the Hezbollah in Lebanon. The Memo by Jama’atu Tajdidil Islamiy; and Zauren Hadin Kan Malamai (Coalition of Ulama and Civil Organizations), Kano catalogued series of incidents to demonstrate suggestions and allegations of foreign involvement in the activities of the IMN.
- iii. The NA has alleged that there was a build-up of mammoth crowd of IMN members who trooped into Zaria from across the country to "defend" Hussainiyya, residence of the IMN leader at Gyallesu and Darul Rahma at Dambo, The Nigerian Army asserted that it received intelligence that the IMN has been amassing weapons to carry out a major attack on security agencies and citizens, the justification for the cordon and

search. The cordon and search however did not reveal significant quantities of weapons found. While the search revealed bows and arrows, catapults, sticks and a few dane guns, The assumption that the IMN in Zaria was heavily armed was not verified.

- iv. The clashes between the NA and the IMN in July 2014 during the Quds day processions which resulted in the death of over 30 members of the IMN, including three sons of Sheikh Ibraheem Yakubu EL-Zakzaky remained a grudge in IMN circles that antagonised them to the NA. The continuing tensions between the NA and the IMN arising from the above incident, which have caused serious apprehension and distrust in minds of the IMN regarding the presence of NA whose intentions they have come to consider as ominous and confrontational.

3.3 RECOMMENDATIONS

- 1) The State and its law enforcement agencies should investigate all persons allegedly breaking the law even when such persons belong to powerful religious groups. All those found to have engaged in illegal activities must be prosecuted and if found to be guilty punished appropriately.
- 2) The IMN is notorious for engaging in hate and dangerous speech that provoke other Muslims. The National Assembly should initiate the establishment of a law against hate and dangerous speech and once enacted the law should be enforced.
- 3) Ecumenical groups in Nigeria, the JNI and CAN in particular should be all-inclusive and resist the temptation of excluding those they disagree with. They should prioritise the culture of civility and tolerance in their relationships.

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- 4) Intelligence agencies should improve their capacity to study and follow the activities of all groups likely to engage in acts of violence or the destabilisation of constituted authorities in Nigeria.
- 5) Nigeria needs to invest more in the education of its youth, expanding employment opportunities and reducing the level of poverty affecting citizens.

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CHAPTER FOUR

TOR (c) TO ASCERTAIN THE NUMBER OF PERSONS KILLED, WOUNDED OR MISSING DURING THE CLASHES

4.1 BACKGROUND

Following the clashes between the Nigerian Army (NA) and the Islamic Movement in Nigeria (IMN) a number of casualties were recorded on both sides. These casualties could have resulted from gunshot wounds, other deadly weapons such as bows and arrows, machetes, knives, cutlasses, being stamped upon and the use of Molotov (petrol bombs). Although it was difficult to establish the actual figure of the dead and wounded, the Commission was able to take evidence from the Kaduna State Government and the Nigerian Army to establish the number of people they know, or they admit to have died. Getting accurate information on the number of people killed, wounded or missing during the clashes is however very difficult. The NA was not forthcoming on information available to it about casualties. The IMN did not appear before the Commission to give evidence on the number of casualties they suffered although they published a list of dead and missing members on their website which cannot be verified. They claim in their report that 779 had died as at May 1, 2016 but this claim is not before the Commission.⁷⁷

The Kaduna State Government also submitted an annexure of the warrants obtained to bury 191 corpses from the NA Depot in Zaria and 156 corpses from the Ahmadu Bello University Teaching Hospital,

⁷⁷ See <http://www.islamicmovement.org>

Shika-Zaria. The warrants were issued on 14th December from the Chief Magistrate Court 1, Kaduna.⁷⁸ The KDSG⁷⁹ revealed that 66 IMN members (53 males and 13 females) were injured. They were sent to the Ahmadu Bello University Teaching Hospital, Shika-Zaria. Letters from the ABUTH, Shika and St. Luke Anglican Hospital, Wusasa, Zaria confirmed the treatment and discharge of this number of wounded.

4.2 FINDINGS/OBSERVATIONS

4.2.1 Dead Persons.

- i. The evidence before the Commission from the Kaduna State Government memo dated 26th February, 2016 States “that from the bodies provided by the Army, there were 347 corpses made up of 156 evacuated from the Ahmadu Bello University Teaching Hospital, Shika and 191 from the Nigerian Army Depot, Zaria. The actual counting of the corpses by Kaduna State Government officials during the burial confirmed this number.
- ii. The memorandum submitted by the Nigerian Army dated 9th February, 2016 revealed that NA lost one (1) soldier, 98NA/46/29100 Cpl. Dan Kaduna Yakubu.⁸⁰ Also, oral evidence before Commission by the Nigerian Army Acting Provost Marshal showed that seven (7) people died at the scene of the blockade near the Hussainiyya Baqiyatillah along Sokoto road, Zaria on the 12th Day of December, 2015.
- iii. The Medical Officer of the Nigeria Prisons Service also confirmed that one of the IMN members in their custody as a result of the clash died in the hospital.

⁷⁸ KDSG Memo, Annexure A

⁷⁹ see KDSG memo p.4

⁸⁰ See enclosure 10 (E1) of the Nigerian Army memo

- iv. The Commission’s finding is that a total number of 349 persons lost their lives during the clashes. The Commission could not ascertain whether out of the said 349 who lost their lives, the seven people who died at the road blockade were included in the 347 buried in a mass grave by the Kaduna State Government. It is unfortunate that the Medical Officer in charge of the Nigerian Army Depot Health Centre who took custody of some of the corpses was not forthcoming in giving evidence that would have enabled the Commission to ascertain the actual number of people killed. The Officer said he didn't even ascertain the gender of both the adult and children corpses that were deposited in his Medical Centre.
- v. Had the IMN submitted a memo and appeared before the Commission, it might have been able to shed light on the number of their members who might have lost their lives in the clashes.

4.2.2 The wounded:

- i) By the same memo of Kaduna State Government⁸¹ revealed that, “a total of 66 IMN members (53 males and 13 females) were injured. They were sent to the Ahmadu Bello University Teaching Hospital, Shika. Letters from the ABUTH, Shika and St. Luke Anglican Hospital, Wusasa, Zaria where they were treated and discharged confirmed this number. It was also in the evidence of the Medical Director, ABUTH that some of the injured either left on their own or taken by relatives. Therefore, the

⁸¹ see KDSG memo p.4

Commission could not with certainty determine the number of those wounded.

- ii) It was also in evidence from memorandum submitted by the Nigerian Army and the testimony of one senior army officer, Col. M. F. Babayo that he the said Col. Babayo who led the C&S operations at Dambo was seriously injured and rendered unconscious in the process by members of the IMN.⁸²

4.2.3 Missing Persons

There was no evidence before the Commission to confirm if there were any missing persons from the clashes.

4.2.4 Others

- i. The Cordon and Search operation should have been based strictly on the rules of Engagement in order to reduce the number of casualties.
- ii. The force used by the Nigerian Army resulting in the death of the 349 IMN members was disproportionate.
- iii. The Officers of the Nigerian Army who testified before the Commission were not forthcoming in providing full disclosure on the number of the dead, wounded and missing persons.
- iv. The Commission was unable to determine the causes of death of the deceased victims owing to the mass burial conducted by the Kaduna State government without any autopsy.
- v. The Burial of all the corpses male and female Muslims in one grave violated Islamic traditions and other

⁸² see also enclosure 10 (E1) of the Nigerian Army memo

relevant burial laws of Kaduna State and Rule 115 of the Geneva Convention.

4.3 RECOMMENDATIONS:

- 1) Members of the Nigerian Army found to have been involved in the killings should be brought to trial before a Court of competent Jurisdiction.
- 2) The members of the IMN found to have been involved in the killing of Cpl. Dan Kaduna Yakubu should also be tried before a Court of competent Jurisdiction.
- 3) The Nigerian Army should intensify efforts in ensuring compliance with the Rules of Engagement and other legal standards in Cordon and Search operations at all times.

CHAPTER FIVE

TOR (D) TO IDENTIFY ALL PROPERTY ALLEGED TO HAVE BEEN DAMAGED OR DESTROYED DURING THE CLASHES, THE OWNERS OR OCCUPIERS OF SUCH PROPERTY AND THE VALUES CLAIMED BY THEM FOR SUCH DAMAGE OR DESTRUCTION

5.1 BACKGROUND

The Commission received evidence from persons who said they had lost their property due to the clash between the NA and the IMN from the 12th to 14th December 2015. As the IMN refused to appear before the Commission although they were given every opportunity to do so, the Commission could not determine the number of property belonging to them that might have been damaged or destroyed. The SSS in its submission to the Commission gave an overview of properties they identified as destroyed which included the structures at the Hussainiyya Baqiyatillah Headquarters of the IMN; the private residence of El-Zakzaky at Gyallesu; the tomb of the mother of El-Zakzaky, also known as Gidan Hari Jamo, at Unguwar Jushi; Foudiyya Centre at Danmagaji, IMN's educational centre; IMN's cemetery at Dambo Village; several property including, but not limited to, cars and motorcycles belonging to non-IMN members trapped in the incident.⁸³ The Gyallesu Community being the primary location of the cordon and search operation of the NA and also the location of most of the destruction submitted in its memo a comprehensive table of damages. The list included names, description of damages and value claimed by 41 individuals. The least value being NGN12,000, claimed by one Sani Danbala for his Mercedes Benz E190

⁸³ DSS memo, Op. cit. pp. 13-14

windscreen and the highest claim being for complete destruction of Storey building belonging to Alhaji Kailani Muhammed with the value placed at NGN50,000,000.⁸⁴ The Commission embarked on a visit and reproduced a table as part of its findings.

5.2 FINDINGS ON PROPERTIES DESTROYED, DAMAGED, THEIR OWNERS AND CLAIMS:

Evidence before the Commission and its visit to the sites of the clashes at Hussainiyya, Gyallesu, Dambo, Jushi, Danmagaji and Police Motor Traffic Division (MTD) Zaria respectively, found the identified movable and immovable properties that were either destroyed or damaged during clashes as revealed in the table below:

PROPERTIES

| S/No | Name | Location of Property | Amount claimed by the Owners |
|-------------|------------------------------|--|-------------------------------------|
| 1 | Alh. Magaji Danja | No. 19 Wali Road, Gyallesu, Zaria | N12,750,000.00 |
| 2 | Alh. Ahmadu Ibrahim Dansiddi | No. 18 Dan Madami road, Gyallesu. That a plot with 4,000 Nos of blocks was destroyed. | N3,550,000.00 |
| 3 | Alh. Kailani Muhammed | No. 2 Wali Road, Gyallesu, Zaria. Two (2) flats of 4 bedrooms each were totally destroyed. | N50,000,000.00 |
| 4 | Abubakar Faskari | 4 Rooms destroyed as a result of demolishing Al-Zakzaky's house | N1, 200,000.00 |
| 5 | Suleiman Idris | Tailoring shop at Gyallesu with 2 sawing machines | N250,000.00 |
| | | | |

⁸⁴ Gyallesu Community, Op. cit. Appendix A

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| | | | |
|----|--------------------------------|---|----------------|
| 6 | Salisu Ahmed Gyallesu | House destroyed and 2 cars at No. 1 Madaki Road, Gyallesu | N2,139,152.28 |
| 7 | Ismail Hamis | Cosmetics shop at Gyallesu | N250,000.00 |
| 8 | Yusuf Musa | Phones, generator set and computer accessories at shop in Gyallesu | N400,000.00 |
| 9 | Salisu Paki | Wall crack, windscreen destroyed | NP |
| 10 | Alh. Adamu Muhammad Gubuchi | 4 tires destroyed all windows glass. Wall fence destroyed as a result of demolishing | N246,000.00 |
| 11 | Adamu Isiyaku | Shoe shining materials and properties burnt | N30,000.00 |
| 12 | Ibrahim Mansur | Shop destroyed including all properties | NP |
| 13 | Alh. Ibrahim Adamu | House frontage destroyed by stray bullets | NP |
| 14 | Lawal Isah | Triangle Fence wall | N50,000.00 |
| 15 | Mal. Sabiu | All rooms doors were destroyed; roofing destroyed, books destroyed Lubbers, wall destroyed | NP |
| 16 | Rabiu Abubakar | Roofing ceiling noggin | N80,000.00 |
| 17 | Abubakar Habibu | Sliding door destroyed by stray bullets | N30,000.00 |
| 18 | Lubabatu Muktar | All properties burnt | N525,500.00 |
| 19 | Kafila Bala Asala | All Properties burnt | N3,123,000.00 |
| | | TOTAL | N74,373,652.30 |

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*NP – Not Provided

IMN Property damaged
during the clashes

- i. Hussainiyya
Baqiyatillah.
- ii. Private Residence at
Gyallesu, Zaria.
- iii. Residence of Hurras
at Gyallesu near
his private
residence
- iv. Mother’s residence
and tomb (gidan
Harijanmu) at
Jushi.
- v. Fudiyya Islamic
Vocational Centre
Danmagaji, Zaria
- vi. Darul Rahma
Dambo village.

Since the IMN did not
appear before the
commission, the values of
these properties could not
be determined.

| VEHICLES | | | |
|----------|---|---|------------------------------------|
| S/N o | Name | Type | Amount claimed by the Owners |
| 1 | Alh. Sidi Abdulkadir Suleiman – No. 3 Barde road Gyallesu | Toyota Carina II AM 148 ZAR | N750,000.00 |
| 2 | Attahiru Yunusa – NAPRI, Zaria. | a) Toyota Siena- Reg. No. ZAR 629AA b) VW Golf – Reg. No. AT 462 MNA c) Tricycle (NAPEP) Reg. No. QB 727 NSR | N206,000.00 |

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| | | | |
|----|---|---|---------------|
| 3 | Alh Yusuf Babajo – No. 3 Makama road Gyallesu | Toyota Corolla AA 655 ANC | N1,500,000.00 |
| 4 | Hudu Mika'ilu | Mercedes Benz C | N70,000.00 |
| 5 | Abdul-Azeez Ahmed | Jincheng burnt or missing (iron) | N45,000.00 |
| 6 | Alh. Kabiru Paki | Windscreen, 2 Lyrics punch walls and 2 rooms crack | N152,000.00 |
| 7 | Muhammadu Isiyaku | Jincheng missing (Rubber Rubber) | N120,000.00 |
| 8 | Mal. Muhammed | Screen (wind screen) 4 tires punch or destroyed | N120,000.00 |
| 9 | Mal. Abdullahi Koshe | Wind screen, H/light, Body of the car hit, 4 tires punch | N65,000.00 |
| 10 | Bello Shafi'u | 2TV set (stray bullet) windscreen, Back and front | N66,000.00 |
| 11 | Abubakar Bala Budiga | Windscreen back and front 4 tires punch | N50,000.00 |
| 12 | Shehu Muhammed | Refrigerator compressor, shop, items all destroyed in the shop kerosene tank. | N120,000.00 |
| 13 | Rabiu Maizare | Sewing material destroyed and due to stray bullet. | N300,000.00 |
| 14 | Jibril Abubakar | Commodities (sewing machine) destroyed as a result of stray bullets | N200,000.00 |
| 15 | Alh. Mikalu Garba | Windscreen back and front. Side glasses, 4 tyres punch | N60,000.00 |
| 16 | Yakubu Dan Mori | Jincheng (iron) | NP |
| 17 | Nasiru Ahmed Abubakar | Windscreen back and front all side glass and 4 tyres | N90,000.00 |
| 18 | Sani Danbala | Front windscreen destroyed Mercedez E190 | N12,000.00 |
| 19 | Garba Muhammad Salis | Windscreen Drive side door glass, boot screen glass all four tyres | N56,000.00 |
| 20 | Marwan Muhammad Salisu | Windscreen, two tyres destroyed of right hand side of glasses, list of life | N21,000.00 |

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| | | | |
|--------------------|------------------------|---|--------------------------|
| | | (stray bullets) | |
| 21 | Aliyu Sunusi | Two deep freezers, one generator set, all items burnt to ashes | N300,000.00 |
| 22 | Adamu Yusuf | 75 liters of fuel destroyed, Bends Host | N20,000.00 |
| 23 | Kabiru Iliyasu | Windscreen, sliding door (shop) | N35,000.00 |
| 24 | Ibrahim Muhammad Ahmed | All sewing cloths destroyed, machine destroyed, tables and benches completely destroyed | N204,000.00 |
| 25 | Anas Ado | Sewing machine destroyed, Fabrics destroyed, door destroyed by stray bullets | N21,400.00 |
| | | TOTAL | N4,583,400.00 |
| GRAND TOTAL | | | – ₦ 78,957,052.30 |

| | | | |
|--|-----|---|--|
| | IMN | 2no Toyota SUVs, 30 motor cycles and 65nos vehicles at MTD, Zaria | |
|--|-----|---|--|

The Commission inspected 2 no. Toyota SUV's, 30 motor cycles and 65 No. vehicles at Motor Traffic Division (MTD), Zaria which were recovered from the Hussainiyya Baqiyatillah site.

5. 2.1 OBSERVATIONS

- i. While some of those whose properties were affected during the clashes gave the estimated values of their property and the amount of compensation claimed, others did not state the cost implications of the damage or destruction done to their property let alone lay any claim.
- ii. The Commission could not authenticate or assign values to the landed property damaged or destroyed and the damaged motor vehicles found in the premises of the IMN. Since the IMN members neither appeared before the Commission nor submitted written memoranda, the Commission could not

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ascertain the values of their property either destroyed or damaged.

5. 3. RECOMMENDATION

The Kaduna State Government should appoint professional valuers to re-evaluate properties reported to have been destroyed or damaged and take appropriate steps to provide necessary compensation to the claimants.

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CHAPTER SIX

TOR (E): TO IDENTIFY ACTS OF COMMISSION AND OMISSION OF RELEVANT PERSONS, TRADITIONAL AND RELIGIOUS INSTITUTIONS, NON-GOVERNMENTAL, FEDERAL AND STATE ACTORS AND EMERGENCY RESPONSE AGENCIES BEFORE, DURING AND AFTER THE CLASHES

6.1 BACKGROUND

The Commission, in accordance with its mandate set out to determine whether there were acts of commission or omission by the direct parties, security agencies, National Emergency Management Agency (NEMA), State Emergency Management Agency (SEMA), Federal Road Safety Commission (FRSC), Federal, State or Local Governments, the Emirate, District or at the Community levels.

6.1.1 The Federal Government:

JTI's memo¹ and Prof. Mahadi's memo² provided evidence of the neglect of responsibility by the Federal Government (FG) with regards to the constant and consistent complaints by individuals, communities and organisations against the IMN. Prof. Mahadi makes the case that even the security agencies were living in a state of fear and trepidation vis-a-vis the IMN.³ Previous recommendations by Commissions of Inquiry relating to this group and other similar groups were not implemented and key examples are the Galtimari and the Sheikh Lemu Presidential

¹ JTI, Op. cit. p. 23

² Mahadi, Op. cit. p. 11

³ Ibid

Commissions’. The Commission is concerned that in spite of the importance of the mandate given to this Commission, some Federal Government agencies were not forthcoming in making full disclosures. During the period of the clashes, the FG was silent on the level of clearance given to the NA to carryout operations during the clash – see the observations by the JTI in its memo.⁴ Following the clashes, there were protracted silences and when the FG finally spoke, it was to say that it had to wait for the Kaduna State Government. Nigerians did not get the required message from the Federal Government that the events of 12th to 14th December 2015 constituted a serious national emergency.

6.1.2 Kaduna State Government

The Kaduna State Governor was very responsive to the crisis and was on the scene by late afternoon of 12th December, 2015 and visited the Hussainiyyah while it was still under siege by the NA.⁵ He also addressed the State. The point must be made however that the Kaduna State Government had over the years failed in its essential responsibility to arresting the series of illegal actions perpetrated by members of the IMN in Zaria. These include their unlawful acquisition of land and construction without appropriate permission, incessant harassment of residents and violent acts against persons etc. Numerous letters were written to draw the KDSG attention by individuals and groups without any follow-up. One of the letters received in evidence by the Commission was written by the “Voice of Gyallesu” to Governor Yero on the blockage of his own entourage by the IMN. The JNl memo also attached letters to this effect. It is this habit of not responding to issues as and when due that gradually led to the degeneration of the situation

⁴ JTI, Op. cit. p. 23

⁵ Ibid.

in Zaria and other parts of the State. This observation is also clearly stated in the memos by the JTI and Prof. Abdullahi Mahadi. Inaction by the State Government encouraged inaction by other agencies with responsibility of law enforcement and regulation. The local authorities in particular were essentially powerless in such situations occasioned by inaction of the State Government.⁶

6.1.3 The Nigerian Army (NA)

The NA in its submission to the Commission appended the NA Rules of Engagement. To determine if the force used was disproportionate or not, reference had to be made to the number of casualties on both sides and the kind of weapons used. The JTI in its memo is of the opinion that the Army had to act as there were obvious threats⁷ and the NA in its memo listed dane guns and petrol bombs as part of the IMN arsenal. The disproportionate use of force adduced is contrary to the NA's Rules of Engagement 3 and 4.

The NA's cordon and search (C&S) operation was justified by the NA in its memo and witness statements by Col. A. K. Ibraheem who led the operation. The JTI opined that the rules of engagements were observed as the Gyallesu residence of the IMN leader was besieged. It noted that the siege on the Hussainiyyah, which began by 3:00pm and Gyallesu by 7:00pm was not without announcements ordering evacuations and the attacks only began the following morning.⁷ The NA memo contained details of the C&S operations but fell short of giving the number of casualties on the side of the IMN. All questions posed to the NA to extract information on casualties on the other side did not receive

⁶ Mahadi, Op. cit. pp. 20-21

⁷ JTI, Op. cit. p. 20

adequate responses that were realistic and believable. The NA however provided a very detailed disclosure of casualties of officers and men on their side.⁸ The NA failed to, by all indications, to gather sufficient intelligence to warn them about the danger of driving into a roadblock, intelligence that could have been used to follow another route for example, thereby avoiding the clash.

6.1.4 The Nigeria Police

Before the events of December 12, 2015, the NPF had received numerous complaints on the conduct of the IMN bordering on the breaking of laws and disturbance of order and in extreme cases murder. There is no evidence of responses taken by the NPF to adequately enforce the laws of the land. The SSS made reference to such complaints in its memo.⁹ The NPF acknowledged that they have indeed been receiving series of reports on lawlessness by IMN members but explained that they did not feel empowered to act for “tactical reasons”, whatever that means. This is even as the officers and men of the NPF were not spared from the illegalities perpetrated by the IMN. ACP Dalijan in his testimony before the Commission spoke of a DSP molested by IMN members and a forceful retrieval of an IMN member’s motorcycle by the IMN. This and the blocking of several overtures by the NPF to meet with the IMN leader show the weakness of the NPF in exercising its authority as far as the IMN is concerned. While the NPF was present at the beginning of the clash of 12th December, 2015 they explained to the Commission that they took the decision to withdraw from the scene and go and defend their “police stations” suggesting thereby that they had no responsibility for law enforcement at the scene of the clash. The 1999

⁸ NA, Op. cit. pp. 16-18

⁹ SSS memo to the Commission, Undated.

Constitution of the Federal Republic of Nigeria (as amended) tasks the police for: “the maintenance and securing of public safety and public order”¹⁰. The Police Act further defines the NPF’s functions as follows:

“The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged...”¹¹.

6.1.5 SSS and the Intelligence Community

The clash between the NA and the IMN from 12th to 14th December 2015 reveals a glaring failure of intelligence. The SSS, the NPF as well as the NA all have intelligence functions in their mandates. This inadequacy and the reluctance of these agencies to provide vital information requested raise concern on how well they are doing their work. There is also an allegation that has made the rounds that it is the IMN members that have infiltrated the security agencies of the country rather than the other way round. This is indeed a very worrying situation.

6.1.6 Islamic Movement in Nigeria (IMN)

Prof. Mahadi’s memo,¹² JTI’s memo¹³ and testimonies of witnesses before the Commission give strength to a position that the IMN has been in perpetual defiance of constituted authorities. The leadership of the IMN therefore did not see the need to curb its followers’ excesses. It appears they even encouraged their followers to sustain their action. The leader of the IMN could have easily instructed his followers to

¹⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended) Chapter VI, Part III, B, 215(4)

¹¹ Part II, 4. [1979 No. 23.]

¹² Mahadi, Op. cit.

¹³ JTI, Op. cit.

remove the roadblocks and allow the COAS’ convoy passage but did not do so. Similarly, he failed to advise his members to surrender when the NA used loud hailer to call on IMN members to come out and surrender. The deliberate failure to register the movement according to the laws of the land with the Corporate Affairs Commission (CAC) as found out by Hon. Muhammad Ali is a strange omission.¹⁴ The possession of arms by the IMNs members on the said day of the clash (December 12, 2015), is a breach of the law. The authorities may have not been able to expressly bring to the IMN attention that they had no right to bear arms but ignorance of the law is no excuse. The IMN, for its part, has a history of blatant refusal to respect the laws of the land and the rights of other Nigerians.¹⁵ The Commission’s findings, observations and recommendations are set forth below.

6.2 FINDINGS/OBSERVATIONS

6.2.1 Federal Government

- i. Testimonies of witnesses and stakeholders who appeared before the Commission point to reasonable conclusions that there was lack of political will on the part of the Federal Government to take proactive steps against seemingly dangerous groups/organizations. Many witnesses pointed to the non-implementation of recommendations of reports of previous Commissions of Inquiry relating to this group and others who have posed grave threats to peace and harmonious living. Of particular relevance have been the reports of Galtimari and Sheikh Lemu Presidential Commissions pertaining to Boko Haram insurgency;

¹⁴ Hon. Muhammad Ali’s Memo to the Commission.

¹⁵ M. S. Umar, Op. cit. p. 21

- ii. Failure or inability to equip and provide proper and adequate training for the law enforcement agencies to develop capacity and commensurate capabilities to deal with incessant civil disorders, insurgencies, subversions by elements who have demonstrated the capacity to undermine national security, harmonious community interactions and the maintenance of law and order generally. This lack of capacity was further buttressed during the cross examination of Deputy Superintendent of Police (DSP), Kenneth Dika, by the police Counsel, Assistant Superintendent of Police (ASP) Leo Martins in the dialogue below;

ASP Leo Martins: Please tell this Commission whether if by international standards the Nigeria Police Force is properly equipped.

DSP Kenneth Dika: No, it is not.

ASP Leo Martins: Thank you.

- iii. There is evidence to suggest that the relevant federal authorities, and officials such as Diplomats, National Intelligence Agency (NIA), Immigration, Customs, etc. have not been diligent in keeping a watch on the threats posed by the IMN, its external connections, financing, statements and general surveillance.
- iv. The responses from the foregoing agencies to attend to requests for information by the Commission were not encouraging at all, with the result that there was a huge deficit in the availability of information to the Commission to enable it make informed decisions or come to firm findings on issues based on credible data that is not in public domain.

6.2.2 Kaduna State Government

- i) Testimonies of witnesses and stakeholders who appeared before the Commission point to reasonable conclusions that there was lack of political will on the part of some previous Kaduna State Governments to take proactive measures against seemingly dangerous groups/organizations.¹⁶
- ii) Various officials of the Kaduna State Government testified before the Commission to confirm that, aside from the ground of Public health and safety, they carried out the demolition of the Hussainiyyah Baqiyatillah, the residence of Sheikh Ibraheem El-Zakzaky (leader of the IMN), the fence and some structures at Darul Rahma in Dambo, the premises at Jushi housing the graves of El-Zakzaky’s mother and sister, the Fudiyya School and Media Centre at Danmagaji, were constructed, without recourse to due process of law and in contravention of the KASUPDA Law.¹⁷
- iii) Other acts of commission and omission pertain to the government’s inability, failure or reluctance to enforce building codes, regulations and building permits in a timely manner.¹⁸ Various letters written by concerned and affected communities to the Kaduna State Government received no visible or responsive action to assuage public concerns and agitations pointed out in these letters. Of significance and efforts calling for attention were letters contained in the Memo submitted by the Gyallesu Community, Letters to: District Head of Gyallesu and the Emir of Zazzau, letter by the Voice of Gyallesu to Governor of Kaduna State on the

¹⁶for example:

¹⁷ See KDSG memo

¹⁸ see addendum of KDSG memo.

blocking of Governor Yero's entourage from entering Gyallesu received quite some resonance; Blockade and attack on the convoy of the Emir of Zazzau as reported by the Daily Sun of 5th June, 2015 as well as the memo by Jama'atu Nasril Islam Zaria Branch attested to all these.

- iv) An official of the State Government stated that he, in collaboration with officers and men of the NA carried out the burial of 347 bodies in a mass grave on December 14-15, 2015 without conducting proper inquest to ascertain the cause and circumstances of the death or even establishing the proper identities of the deceased persons. This amounted to non-compliance with the Coroner's Law of Kaduna State, 1991. The whole processes of the burial would similarly seem to violate certain provisions of relevant International Conventions.

6.2.3 Nigerian Army (NA)

- i) Having regard to the strength of the IMN members or crowd, they confronted at Hussainiyya Baqiyyatillah, and the assorted weapons wielded and/or recovered, there appeared to be a disproportionate use of force by the NA to deal with the situation. In particular, the actions were contrary to Rules 3 and 4 of the Rules of Engagement, which was supplied to the Commission by the NA. The actions of troops of the Nigerian Army were also found to be contrary to Rules of Proportionality by International Standards.
- ii) While the NA might have made a convincing case for the conduct of the Cordon and Search (C&S) operations, but it could not justify the high casualty figures sustained on the

part of the IMN. That the Nigerian Army totally depended on the oral orders to carry out the C&S operations was found to be unacceptable to the Commission; oral orders issued by commanders should be immediately followed by written orders to ensure compliance to the Rules of Engagement and Ethics.

- iii) Although the NA made available a copy of the Rules of Engagement to guide their C&S operation, there was no reliable evidence to establish that officers and men who carried out the C&S operations were sufficiently sensitized to observe them.

The NA failed or refused to disclose or record the exact or estimated number of casualties on the part of IMN as a result of its operations at Hussainiyya Baqiyatillah, Gyallesu and Dambo. This must be contrasted with its disclosure of the exact casualties of its officers and men who suffered from the same operations.

- iv) There were indications of intelligence failure in the overall assessment of the threats posed by the IMN to national security and in particular, the potential for conflict on December 12, 2015 when the COAS was being expected in Zaria for Passing Out Parade (POP) of recruits at the NA Depot and would pass by the Hussainiyya Baqiyyatillah.

6.2.4 Nigeria Police

- i) There were repeated and undisputed reports and claims from communities in Zaria and other places of the inability, failure and/or omission by the police to conduct thorough investigations of cases of gross disregard of or disobedience

to law and order, or even alleged murder of citizens, including assaults on its officers by the IMN. The memorandum submitted by the SSS, NPF, Hon. Muhammad Ali and the Commissioned Research Paper by Prof. Baffa all bore testimony to this.

- ii) Police failure to hold to account, members of IMN, particularly its leader, for brazen acts of disrespect of laws and non-recognition of constituted authorities as regards answering to summons, releasing suspects, etc. Many members within Gyallesu and other communities in Zaria have voiced the allegation that the police often ignored complaints reported to them and even encouraged self-help measures to deal with the menace of the incessant activities of IMN. The testimony of ACP Dalijan on a traffic accident involving the IMN where a Deputy Superintendent of Police was molested by IMN members and a motorcycle belonging to an IMN member forcefully recovered by IMN. An incident in Goronyo, Sokoto State, as disclosed in a memo, showed how the police took steps to effect arrest, but the outcome of the case is still unknown to this very day. Similarly, in connection with the Gabari incident where attempts to take over a mosque by IMN members, the testimony of ACP Dalijan disclosed how, on the orders of the IMN leader, Hamza Yawuri, a commander of the *Hurras*, directed IMN members to shun a conciliatory meeting with Gabari residents. Testimonies and memos have revealed the IMN total disregard of constituted authorities and the helplessness or inability of the police to take action to deal with the matter effectively. The memos of Sabon Gari

Community; Samaru Central Mosque; Jama’atu Nasril Islam (JNI) and the Commissioned Research paper by Umar Baffa, pages 16 and 17 also confirmed these.

- iii) The testimony of the Area Commander, Zaria that he and the Dandarman Zazzau i.e. District Head of Gyallesu went to see the IMN leader at his residence, but they were denied audience showed the ineffectiveness of investigation that permeates the Nigeria Police.

6.2.5 SSS and Intelligence Community

- i) Reluctance on the part of the Security and Intelligence agencies to provide vital information sorely needed by the Commission but which is unavailable in the public domain and not disclosed or gathered from public hearing.
- ii) Intelligence failure or inadequacy appears to permeate these agencies having regard to their threat assessment of the activities, growth and local and domestic connections of IMN with foreign powers and organs.
- iii) The oft-repeated allegations from the public and boasts by the IMN of its infiltration of these agencies which suggestions may well have compromised service delivery, proactive interventions, interdiction and degrading of their activities or minimizing the menace they pose, may have affected the capacities of these agencies.

6.2.6 Islamic Movement in Nigeria (IMN)

- i) Failure of the IMN leadership to simply instruct its followers to remove the roadblock and allow passage to the convoy of the COAS was an act of commission.

- ii) Failure of the IMN leadership to halt the trooping to its residence in Gyallesu of members even with the cordon and search in place by the Nigerian Army. The testimony of SSG to Kaduna State revealed that a Phone call was made by Kaduna State Governor to IMN leader to persuade him to prevail on his members to remove the road blockade to no avail. Similarly, the testimony of the State Director of the SSS indicated that he did contact an SSS officer at Hussainiyyah Baqiyatillah to persuade the IMN to allow passage for the COAS convoy to no effect.
- iii) Testimonies by various witnesses before the Commission pointed out how the IMN has been operating outside the ambit of law, by refusing to register the IMN with the official registering bodies/authorities, borne out of IMN's defiance or rebellion against the Nigerian state. The Testimony of Hon. Muhammad Ali said he conducted a search at Corporate Affairs Commission and discovered that the IMN is not officially registered. In addition, Counsel to the Commission confirmed that the IMN is not a registered organization.
- iv) An assessment of the various testimonies of witnesses showed the character of the IMN as an organization that persistently breaks the laws of the land and/or takes the law into their hands to prevent arrest, abort legal proceedings and/or to execute their will or plan at any time and place, as the case may be and also the persistent and recalcitrant defiance and rebellion against constituted authorities.
- v) The memorandum and testimonies and exhibits referred to made serious allegation of possession of illegal assorted weapons and threats/breaches to public peace and security.

- vi) Members of the public who reside in the vicinity of the residence of the IMN leader, at Hussainiya and Dambo all have portrayed the regular acts by IMN members of mounting illegal road blocks, check points and unjustifiably restricting movement of innocent citizens thereby creating serious inconveniences and tension in these communities.
- vii) There were allegations of the creation of a para-military guard brigades called ‘HURRAS’ with whom law abiding people that insist on exercising their rights (rights of way, right to differ in opinion or action, etc.) are terrorised.
- viii) There were also various testimonies, which revealed acts of aggression and violence against individuals or communities that have often led to deaths, grievous bodily harm and loss of property. There were reported cases of unlawful intimidation, killings or suspected murder of individuals in their communities by IMN members.
- ix) Many exhibits were tendered before the Commission of video and audio clips showing the IMN had established paramilitary outfits, instituted security outfits and performed paramilitary ceremonies and combat exercises and inspection by the IMN leader reminiscent of a State.
- x) Illegal construction of different sorts of structures (shrines, residential buildings, cemeteries, etc.) without recourse to established laws and procedures, contrary to KASUPDA Law.
- xi) Appropriation of public infrastructure such as total ransacking of the Polo area in Zaria and schools along their path during their ‘tattaki’ (Long distance trekking).

- xii) Provocative preaching aimed at inciting members against non-members.
- xiii) Deliberate refusal of the IMN to register as an association in Nigeria so that it can sue or be sued.

6.3 RECOMMENDATIONS

The Commission has made appropriate recommendations in respect of this TOR under **TOR (i)** in Chapter Ten of the Report.

CHAPTER SEVEN

TOR (F): TO DETERMINE WHETHER THE ACTS OF COMMISSION AND OMISSION IDENTIFIED IN SUB-PARAGRAPH (E) ABOVE WERE NECESSARY, APPROPRIATE AND SUFFICIENT IN THE CIRCUMSTANCES IN WHICH THEY OCCURRED

7.1 BACKGROUND

The acts of commission and omission of relevant persons before, during and after the clashes may be varied and differ in magnitude and impact on how the incident of 12th – 14th December, 2015 came to pass. Some of these acts may be tangible while some may be intangible.

Among the tangibles could be the spectrum of the events of the period 12th – 14th December, 2015 i.e. during and after. Specifically, the encounter between the Chief of Army Staff's (COAS) convoy and the Islamic Movement in Nigeria (IMN), the cordon and search operations on the premises of the Gyallesu residence of the leader, the Hussainiyya Baqiyyatillah at the Polo Club, and the Dambo Shrine, the post operations recovery and sanitation of the sites.

In sub-paragraph (e) of the TOR above, the Commission during its sitting, where a number of persons, groups and organizations gave testimonies as regards the occurrence of the incident between the Nigerian Army and the IMN, was able to identify various acts of commission and omission by the divergent actors involved in the incident. These actors were duly identified in the sub-paragraph (e) of the Terms of Reference and their action, attitude or inaction noted appropriately.

This section of the Terms of Reference, therefore, seeks to establish, from the verbal testimonies of persons, video clips and the memoranda submitted to the Commission by individuals, groups and organizations, whether those acts of commission and or omission were:

- a) Necessary;
- b) Appropriate and;
- c) Sufficient in the circumstances in which they occurred.

The relevant persons, traditional and religious institutions, non-governmental, Federal and State actors and emergency agencies involved in one way or the other, before, during and after the clashes have earlier been identified in TOR (e) above and are mainly in these categories:

- i) The Direct actors made up of the Nigerian Army and members of the Islamic Movement in Nigeria;
- ii) Federal and Kaduna State Governments;
- iii) Security Agencies made up of the State Security Service, the Nigeria Police, the National Intelligence Agency, the Customs, Prisons and Immigration Services, Nigeria Security and Civil Defence Corps, the Federal Fire Service Department, the Federal Road Safety Corps and the National Emergency Management Agency etc.

7.2 FINDINGS/OBSERVATIONS:

7.2.1 Nigerian Army

The Commission had listened to the testimonies of the various officers of the Nigerian Army, among whom were Army Chief of Administration-Major-General A. B. Abubakar, General Officer Commanding (GOC) 1 Division, Kaduna, Major-General A. Oyebade, Acting Provost Marshal-Brigadier-General A. T. Hamma, Commandant Nigerian Army Depot-Brigadier-General C. G. Musa, Colonels M. F. Babayo, A. U. Abdul, S. K. Usman, A. K. Ibrahim, W. D. Nasir and Major Uche Agulana, a Medical Doctor attached to the Nigerian Army Depot in Zaria. The Commission also considered submissions made by other stakeholders such as the Ahmadu Bello University Teaching Hospital, Zaria, the Police in Zaria, residents of both Sabon-Gari and Gyallesu, groups and individuals before it came to its findings in section (e) of the Terms of Reference. Where issues were not clear, it had sought clarification from witnesses, Counsel and other relevant stakeholders.

The Commission, as reflected in TOR (e) above has been able to establish certain acts of commission or omission by the Nigerian Army in its clash with the members of the Islamic Movement in Nigeria. Some of those acts identified amongst others were:

1. Disproportionate use of force contrary to the Army's own Rules of Engagement and the International Standard of Proportionality.
2. The high number of casualties cannot be justified.
3. Conducting such operation totally based on oral orders is unacceptable. Such orders should have subsequently been confirmed in writing so as to ensure compliance with the Rules of Engagement and higher commander's intentions.

4. No evidence has been shown to substantiate the notion that the Army followed its own Rules of Engagement.
5. The Army failed to keep record of recovered casualties on the side of the Islamic Movement in Nigeria; even as it kept accurate record of its own.
6. Knowing that the Chief of Army Staff was to attend the Passing out Parade at the Depot on that day, there was indication of intelligence failure in the assessment of the threat posed by the Islamic Movement in Nigeria to National Security as epitomized by the blockade of the road the COAS was to pass through in Zaria Township.

Constitutional Responsibilities of the Armed Forces of Nigeria.

Section 217 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) mandates the Armed Forces of Nigeria with the following:

- a) Defending Nigeria from external aggression.
- b) Maintaining its territorial integrity and securing its borders from violation on land, sea and air.
- c) Suppressing, insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President, but subject to such conditions as may be prescribed by an Act of the National Assembly.
- d) Performing such other functions as may be prescribed by an Act of the National Assembly.

The Commission, therefore, based its observations on the above constitutional provisions to determine whether or not the Nigeria Army acted outside its constitutional mandate.

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By its own memorandum dated 9th February, 2016 and Enclosure 1 (Rules of Engagement and Code of Conduct for troops deployed for Operation Mesa and other internal security Operations) particularly paragraph 4 thereof, and the physical observation of the sites (locus in quo) of the clashes together with the number of casualties (347), who were buried in a mass grave, the Commission was of the view that the Nigerian Army had used excessive and disproportionate force in its clashes with the members of the Islamic Movement in Nigeria from the 12th - 14th December, 2015.

Going by the memo submitted by Nigerian Army, the Board of Inquiry instituted by the General Officer Commanding, 1 Division, Kaduna and another by the Chief of Army Staff; it did appear that the Nigerian Army did not adhere strictly to the provisions of its Rules of Engagement and the Code of Ethics during the operation.

It would be recalled that the Nigerian Army spokesman, as far back as 12th November, 2015; exactly one month before the clashes, clarified the Army Rules of Engagement in Internal Security Operations in these words:

“the principle of minimum force and for proportionality must be applied at all times; whenever operational situation permits, every reasonable efforts shall be made to control the situation through measures short of using force, including personal contact and the negotiations; the use of lethal force shall only be resorted to, if all other means to control the situation have failed or in case of unexpected attack or suspected Improvised Explosive Device (IED) attack during which a delay could lead to loss of life or serious injury to personnel; and that, any force applied must be

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limited in its intensity and duration; it must be commensurate with the level of threat posed”.

It is, therefore, the opinion of the Commission that these guidelines were not strictly adhered to, resulting in the use of excessive and disproportionate force, which precipitated the large loss of lives and destruction of property in the encounter.

The Army has not been able to convince the Commission that the killings of the 13th and 14th December 2015 at Gyallesu and Dambo were necessary, appropriate or justified, considering the calibre and number of weapons recovered from the group.

The Army's (Enclosure 8 of its memorandum) Handover of Exhibits letter to the Kaduna State Commissioner of Police, with reference number DEPOT/PROV/G1/300/08 and dated 22nd December, 2015; indicated that only one firearm (a locally made pistol) was recovered from the house of the leader of the Islamic Movement in Nigeria, Sheikh Ibraheem El-Zakzaky; while the other weapons recovered were catapults, knives, swords and bows and arrows. These could hardly justify the force and intensity of the two days army show of superior fire power.

It is the opinion of this Commission, however, that the Army has shown enough reason for the conduct of the Cordon and Search operation in the areas mentioned, as its intelligence source revealed the trooping of the IMN members from all over the country to those areas with possible intent to breach the peace and cause harm.

The Commission noted that the persons killed and recovered by the Nigerian Army were either deposited at the Nigerian Army Depot Health Centre as revealed by Major Agulana in his testimony or at the ABUTH

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Shika, Zaria where the Army initially took the bodies to as revealed by the hospital's memorandum to the Commission number: ABUTH/CMD/04.10 dated 5th February, 2016 until the Kaduna State Government requested to bury the 347 corpses, made up of 191 from the Nigerian Army Depot and 156 from ABUTH respectively, in a mass-grave.

In the memorandum the ABUTH said: “On the 13th December, 2015 a military truck containing military officers came into the hospital and drove directly to the Hospital mortuary. None of our staff knew what was in the truck. The truck drove to the back-side of the mortuary where the military officers came down and drove everybody away... On Sunday 14th December, 2015, the military truck came into the hospital again and went to the back-side of the mortuary...On the 15th December, 2015 military officers came in to the hospital at about 11.00pm and went to the mortuary where the military officers and police were on guard...After about 30 minutes the military truck left the Hospital containing all the military officers and police...In summary, on 13th and 14th December, 2015 military officers probably brought something into the hospital which they kept at the back-side of the mortuary strictly under their protection...On the 15th December, 2015 the military officers probably took away what they kept and guarded in the hospital.”

Based on the above and the testimony of Professor A. Ahmed, it is safe to conclude that at all times, the persons killed during the operations were in the custody of the Army and would therefore know the exact number of the bodies they recovered.

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There is a serious omission on the part of the Nigerian Army who failed or refused to disclose or record the exact number or even estimated numbers of casualties on the part of the IMN in its operations at Hussainiyya Baqiyyatillah, Gyallesu and Dambo village when contrasted with its disclosure of the exact number of casualties its officers and men suffered in the same operations.

Perhaps, such failure or refusal by the Army could best be seen in the following dialogue that ensued between Major Agulana, the medical doctor attached to the Nigerian Army Depot Health Centre, Zaria and the Commission:

Commission: Did you play any role in what happened between 12th to 14 December, 2015?

Major Agulana: Yes. As a Medical Doctor at the Depot, I was receiving casualties at the Medical Centre.

Commission: How many casualties did you receive in those three days?

Major Agulana: I can't give any figure.

Commission: How many at the last count?

Major Agulana: I separated casualties.

Commission: How many dead?

Major Agulana: I don't know.

Commission: Don't you keep records?

Major Agulana: Yes we do.

Commission: Then how many did you record?

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Major Agulana: I did not keep record.

Commission: Estimates?

Major Agulana: We don't give estimates.

Commission: What happened to the bodies between the 12th and 14th December, 2015?

Major Agulana: The bodies were taken to the mortuary while some others were laid out on the ground outside. Later I was told to liaise with the Kaduna State Director-General (DG), Interfaith to bury them.

Commission: How many bodies did you handover to the DG?

Major Agulana: I don't know.

Commission: Did you handover 2,000 bodies to him?

Major Agulana: I don't know Sir.

And the dialogue between the Commission and the Major went on like that with the Major not admitting he knew anything at all.

From the above, it can be seen that the army was hedging, did not care or the officer was not competent. The Commission is, therefore, of the view that the Nigerian Army needs to enforce the adherence to its own Rules of Engagement and professional conduct and ethics in its officers and men.

Whether the actions or inactions of the NA as highlighted above were necessary, appropriate and sufficient in the circumstances?

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Based on the review of the sequence of events that occurred between 12th - 14th December, 2015; and having regard to the testimonies of the Nigerian Army on the incidents at the Hussainiyya Baqiyatillah and the subsequent decision by the Nigerian Army to conduct Cordon and Search operations, the Commission attempted to provide answers to the above mentioned questions viz:-

- i) Based on its assessment of the threats posed to the safety and security of the COAS and his convoy on account of the barricade mounted by the Islamic Movement in Nigeria, it was necessary for the Nigerian Army to clear the highway of the barricades to enable the COAS to pass.
- ii) However, “shooting its way” through the blockade, which according to the Acting Provost Marshal, Brigadier General A. T. Hamma, resulted in the killing of seven (7) and injuring of 10 members of the IMN; was uncalled for and therefore considered to be an inappropriate response.
- iii) In view of the failure of the Nigerian Army to disclose how it conducted the Cordon and Search operation, the disproportionate high casualties sustained on the part of the Islamic Movement in Nigeria, the Commission condemns the unjustifiable resort to the use of such force by the Nigerian Army.
- iv) The Commission considered as inappropriate such resort to the use of lethal force, which has left open the question of the proportionality of the force used.
- v) The Commission observed that the Nigerian Army had not followed its own Rules of Engagement and its actions would seem to be contrary to international standards, which must be strictly observed in carrying out such internal security operations.

- vi) Under the circumstances, the operation was sufficient in that the goal of clearing the highway for the Chief of Army Staff and the subsequent arrest of the leader of the Islamic Movement in Nigeria were achieved.

7.2.2 Islamic Movement in Nigeria

The previous TOR (e) identified numerous acts of commission and or omission carried out by the IMN. It was unfortunate that IMN refused to present any memorandum before the Commission. However, from the various memoranda submitted to the Commission, it is clear that the Islamic Movement in Nigeria and its leadership have, over the years, committed acts in breach of peace, against national interest and against good neighbourliness. Some of these acts of commission include but not limited to the findings below.

- i) Unprovoked attacks on other citizens, illegal occupation of mosques, public and private buildings. Examples of such attacks and illegal occupation of mosques and other private and public buildings abound. In a memorandum (page 4) sent in by M. S. Garba of Tudun Wada, Zaria he had this to say as regards unprovoked attack by the members of the IMN on ordinary citizens: *“Musa Sahabi of Tudun Wada Zaria...was delivering a Tafsir at night around 9:00pm when somebody raised his hand portraying that he has a question unknown to the students (of Musa Sahabi) that he is a member of the shi’ites until when one of them... stabbed this scholar in the middle of his head...and Musa Sahabi collapsed when some of the students rushed him to the hospital...”* Similarly, Garba narrated how the residents of Dan-Daji, in the outskirts of Tudun Wada, were attacked by the members of the IMN on

the flimsy reason that someone in the neighbourhood had thrown stones at the house of the IMN leader. In the fracas that ensued they stabbed and killed one Ibraheem Isma'il of No. 112 Anguwan Malamai, Tudun Wada, Zaria.

As regards occupation of other people's mosque, Imam Musa Sahabi of Markazus Salafiyyah, 46 Alhaji Maje Road, Tudun Wada, Zaria had this to say in a memorandum (see page 2) he submitted under oath to the Commission:

“The Shiites never build mosques but consider it a duty to annex other people's mosques as a ploy to coax them into becoming Shiites. One of such case that affects us was the attempt...to take over the mosque attached to No. 42, Maje Road, Zaria. They actually took over the mosque, used it as a forum to desecrate the exalted status of the Prophet...”

- ii) Total disregard to constituted authorities such as contempt towards the Rule of Law and Security Forces - Police, Army, NSCDC, FRSC, etc.

In his Funtua declaration in 1980, Sheikh Ibraheem El-Zakzaky repudiated his allegiance to the Nigerian Constitution and called upon his followers to follow suit. Instances were cited in many of the memoranda submitted to the Commission where such disregard for the constituted authorities was clearly shown. In a video clip shown to the Commission, Malama Zeenat, wife of the IMN leader was heard to clearly berate those who alighted from their motorcycles at the military check-points. She incites people to disobey all such military impositions, as they were not laws made by Allah. Indeed the popular saying amongst the

IMN members in Kano as regards the coming down of one from one's motorcycle at a military check-point is “*Ku bi Turi ko ku yi turi*.” Playing on the word ‘*Turi*’, roughly translated it means: “You must follow *Turi* (the name of the second in command to the IMN leader who lives in Kano) else you will perpetually have to be pushing your motorcycles at check-points.”

- iii) They illegally mount road blocks, check-points and unjustifiably restricting the movement of innocent citizens thereby creating serious inconveniences and tension in the communities during their processions and other activities. The blocking of the Sokoto road in Sabon Gari, Zaria by the IMN members precipitated the current incident the Commission is enquiring into.
- iv) Illegal possession of dangerous weapons and threatening and or breaching public peace and security at will.

Whether the actions or inactions of the IMN as highlighted above were necessary, appropriate and sufficient in the circumstances?

- i) The blockade of the Public roads and Highways on the 12th December, 2015 by the IMN was unnecessary, inappropriate and provocative because it was in gross violation of traffic laws and the right to free movement.
- ii) The refusal of the IMN leader to cooperate with appropriate Authorities to direct his followers to grant access to the COAS was unnecessary, inappropriate and confrontational in the circumstances.

- iii) The trooping into Zaria, by IMN members from various parts of the country from 12th to 14th December 2015 to protect their leader, whose life they thought was being threatened by the Nigerian Army, was necessary for the purpose of the defence of their leader but inappropriate in relation to a threat to public peace and order in Zaria.
- iv) Forceful takeover of mosques and other public and private properties by the IMN is inappropriate.
- v) Attacking and or killing of innocent citizens by the IMN members are inappropriate criminal acts.
- vi) Provocative preaching aimed at inciting their members against other religious sects, government and its various arms is unnecessary, inappropriate and condemnable.
- vii) Incessant breaking of laws of the land and taking of the law into their hands to prevent arrest, abort legal procedure and or to execute their will or plan is inappropriate and unjustifiable acts.

7.2.3 Kaduna State Government

During and in the aftermath of the 12th – 14th December, 2015 Nigerian Army/Islamic Movement in Nigeria clashes, as identified in TOR (e) earlier, Kaduna State Government was found to have committed certain acts of commission and or omission. For example, submissions by Zauren Hadin Kan Malamai (Coalition of Ulama and Civil Organizations Kano State), the Gyallesu Community, Zaria; and the testimony of Isa Adamu and other stakeholders confirmed the numerous reports and calls made for government’s intervention in the attacks, intimidation and sometimes murders of innocent citizens without the government taking

any proactive steps either to stop the menace of the IMN or even engaging them in a more constructive manner.

- i) Lack of political will by the successive Kaduna State Governments in taking proactive measures over the years against the dangerous activities of the Islamic Movement in Nigeria.
- i) Mass burial of 347 persons in a mass grave without conducting proper inquest to ascertain the reasons of death or even the identification of the bodies.
- ii) Destruction of the Hussainiyya Baqiyyatillah, residence of the IMN leader, Ibraheem El-Zakzaky, in Gyallesu, the cemetery in Dambo village, the premises of the grave of El-Zakzaky's mother and sister as well as the Foudiyya School at Dan-Magaji without recourse to due process. The Commission however noted that the Kaduna State Government gave the excuse of 'weakened structure' due to fire and Army bombardment as a reason for the demolition of Hussainiyya Baqiyyatillah, the Gyallesu residence of the IMN leader and the Dambo cemetery and shrine but not for the other two destroyed buildings at Jushi and Dan-Magaji. However, the Commission noted that the Nigerian Army, in its memorandum (see page 12), categorically stated that at the Hussainiyya Baqiyyatillah only the gate leading into the compound was demolished to enable it have access and not any other structure.
- iii) Removal/destruction of all forensic and other material evidence of what happened at the residence of the IMN leader in Gyallesu where most of the casualties occurred in the conduct of the Cordon and Search operation.

- iv) Inability, failure or reluctance to enforce building codes, regulations and building permits in a timely manner.
- v) Although the Commission noted that the State Government made available copies of Prohibition Notices given to the IMN to stop developments without obtaining appropriate permission, there is no evidence to show that these notices were ever served and if served, what action was taken to ensure compliance.
- vi) The Commission noted the Kaduna State Governor’s personal call to the IMN leader in which he asked Sheikh Ibraheem El-Zakzaky to call upon his followers to remove barricades at Sokoto Road and allow the Chief of Army Staff access. Though it was not necessary for the Governor to have to do that, it was however commendable, appropriate and sufficient in the circumstances.

Whether the actions or inactions of Kaduna State Government as highlighted above were necessary, appropriate and sufficient in the circumstances?

- i. The Commission therefore concludes that the Kaduna State Government’s lack of political will to check the menace of the IMN over the years was inappropriate and insufficient in the circumstances.
- ii. Its burial of 347 dead persons without proper inquest, though necessary due to health risk it posed if they were not buried, it was however inappropriate.
- iii. The demolition of the Foudiyya School and the Jushi graveyard of El-Zakzaky’s mother and sister, which did not pose any danger to the public was unnecessary and inappropriate.

- iv. Likewise, the Government's inability to impose its own building prohibition notice to the Movement was insufficient in that the Movement went ahead to erect the said structures.

7.2.4 Federal Government

The Federal Government has the overall responsibility for the well-being of every Nigerian. The constitution of the Federal Republic of Nigeria guarantees certain fundamental rights of every citizen and it is the duty of the Federal Government to protect these rights.

The activities of any person, group or community that pose serious threat to national security, unity and peaceful co-existence and curtails the rights of the other members of the society should be of more than passing interest to the Government. As observed in other parts of this report, the IMN has grown over the years to be a very powerful organization that has been conducting its activities in full public glare.

From the testimonies of the State Security Service, the Nigeria Police, groups such as the Jama'atu Nasril Islam (JNI), communities such as Gyallesu Community, Sabon-Gari Community and host of others, including individuals, it is clear that the menace of the IMN activities had been going on (seemingly unchallenged) for quite a long time. Its external relationship with other countries, such as the Islamic Republic of Iran and Lebanon, has also been touted. In all these, the Government was silent.

It is therefore in this light that certain acts of commission and or omission were observed in the last TOR (e) which this section would identify as to whether they were necessary, appropriate and sufficient in the circumstances.

- i) From the evidence presented by witnesses before the Commission, there has been failure on the part of the Federal Government to act on the excesses of such groups and this has emboldened them.
- ii) The Federal Government has not done enough in monitoring Nigerians who travel abroad in the guise of studies and other endeavours but end up for Para-military training and other unwholesome activities inimical to the country's national interest.
- iii) There is failure on the part of the Federal Government to keep track of the funding of members and leadership of the IMN.
- iv) The Federal Government has under estimated the source of foreign funding to IMN and its leadership.
- v) Lack of an early warning system and a proactive approach to managing conflicts in Nigeria is a serious omission on the part of Government.
- vi) Groups, Movements or individuals who break the law are hardly prosecuted for their actions. This act of omission on the part of Government encourages groups or movements such as the IMN to test its resolve to maintain law and order in the society.

Whether the actions or inaction of Federal Government as highlighted above were necessary, appropriate and sufficient in the circumstances?

The Federal Government's failure to be proactive in its dealing with the IMN may have been a major reason that emboldened the Movement to behave with utter disrespect to law and order over

the decades. It gave it a sense of being untouchable and above the law. In this regards therefore, the Federal Government Agencies’ acts of commission and omission identified above are inappropriate. Its inability to fully equip and train its security agencies is also found to be inappropriate.

7.2.5 Nigeria Police Force

The Nigeria Police, under normal circumstances, has the primary responsibility of maintaining law and order in Nigeria. It is expected that before trouble rears its head, the police would have nipped it in the bud. No operation of this nature should be conducted without the involvement of the Police. The Police investigation department should be aware of all nefarious activities of individuals and or groups in the society. It is in this belief that the Commission enquired into the participation of the Police in the events of 12th -14th December, 2015 in Zaria. It is also in that light it looked at the acts of commission and or omission committed by the Service.

- i. Series of complaints were laid before the Commission of seeming helplessness of the Security Agencies, particularly the Nigeria Police Force. Having regards to the memorandum of the Nigeria Police Force, dated 26th February, 2016; the Commission found with dismay the helplessness of the Nigerian Police Force in handling the excesses of the IMN members. This view is reinforced by the memorandum of the Gyallesu Community, submitted to the Commission in February, 2016 where they highlighted the refusal or inability of the Police to arrest the leadership and members of the IMN even in situations where serious cases of breach of peace or commission of crime, such as murder,

arson and destruction of property were committed. The Police were reported to have severally sent back the complainants with the advice that they should go and defend themselves.

- ii. The Nigeria Police was aware of the many excesses of the IMN including cases of murder which were reported to them but they failed to effect arrests and prosecution of perpetrators before the Courts of Law.
- iii. The Commission also observed that from its Memorandum submitted to and testimony before the Commission, the Police acknowledged that members of the IMN have no regard for constituted authorities, do not respond to Police invitations and resist arrest; yet they failed to take any measures such as to protect innocent members of the public against the menace of the IMN members.
- iv. In addition, there is a clear indication that the Nigeria Police deliberately stayed clear of engaging the members of the IMN even when there were brazen violations of the Law, such as blockages of public roads to the detriment of other road users and illegal occupation of roads, schools, mosques etc.
- v. The Area Commander, Zaria reported that, “Zaria Police Stations are filled with murder cases against Shi’ites”...The reports and pictures of their victims have been forwarded to the Inspector-General of Police...They told a victim that Nigerian Law does not operate in their territory before killing him.”

vi. Exhibits handed over to the Police by the Nigerian Army Depot Zaria were as follows:

- i) Locally made pistol - 1
- ii) IEDs – 2 pieces
- iii) Swords – 70 pieces
- iv) Arrows - 21 pieces
- v) Bows - 17 pieces
- vi) Catapult - 40 pieces
- vii) Assorted MTN SIM cards - 1,200 pieces
- viii) Cell phones - 40 pieces
- ix) Unexpended live ammunition - 1
- x) Ceremonial uniform - 3 pairs
- xi) Uniform Jacket - 1
- xii) P-caps - 2 pieces
- xiii) Wet loose boot - 2 pairs
- xiv) White GD belts - 57 pieces
- xv) Reflective jackets - 5 pieces
- xvi) Searches - 3 pieces
- xvii) Line yards- 2 pieces
- xviii) Communication handsets - 18 pieces
- xix) Communication handsets chargers - 17 pieces
- xx) Eye glasses - 7 pieces
- xxi) Signal Communication Control with an External Antenna

It was observed that the Nigeria Police did not deem it necessary to tender these exhibits before the Commission which were alleged to have been recovered from IMN members at the premises of the residence of the IMN leader at Gyallesu.

Whether the actions or inactions of Nigeria Police as highlighted above were necessary, appropriate and sufficient in the circumstances?

- i. It is clear from the findings above that all the acts of commission and omission by the Nigeria Police as regards their inability to contain the IMN's acts of aggression against innocent citizens were inappropriate and grossly insufficient in the circumstances.
- ii. In the circumstances of the exclusive nature of the operations by the Nigerian Army, withdrawal by the Nigerian Police to protect their Police Stations only was necessary but inappropriate and insufficient. Having regards to the constitutional and statutory responsibility of the police to maintain law and order at all times, the top echelon of the Service should have reached out to the Army with the view to assisting in the Cordon and Search operation as well as maintenance of law and order within Zaria and its environs.

7.2.6 Other Security Agencies: (SSS, NSCDC, FRSC, Immigration, etc.)

- i. The Commission found with dismay the seeming helplessness of the Security Agencies in handling the excesses of the group. Each of the security agencies presented memo to the Commission and called witnesses to testify. Unfortunately, the security agencies failed to be forthcoming with relevant pieces of evidence that would have been of immense help to the work of this Commission. The State Security Services in particular ought to have thrown some light on the funding and

alleged military training of members of the IMN in the country and abroad.

- ii. Intelligence failure or inadequacy among the agencies curtailed their IMN's threat assessment.
- iii. The Agencies appear to have abdicated their responsibilities to the IMN in respect of traffic control and management of public highways, especially during their programmes.
- iv. From the testimonies of those who appeared for the Police, Nigerian Security and Civil Defence Corps (NSCDC) and other Security Agencies, the Commission noted that generally, Security Agencies are thinly spread and poorly equipped.
- v. That professionalism seems to have declined within the strata of the security Agencies.

Whether the actions or inactions of Security Agencies as highlighted above were necessary, appropriate and sufficient in the circumstances?

The Security agencies' inability to properly assess the threat of the IMN on that fateful date could not be excused. It was insufficient under the circumstances. There was not much the religious and traditional institutions could do under the circumstances except to report the activities of the IMN to the authorities. This they have done appropriately and sufficiently.

CHAPTER EIGHT

TOR (G): TO DETERMINE THE EVOLUTION OF THE ISLAMIC MOVEMENT IN NIGERIA, ITS LEGAL STATUS, ORGANIZATION, STRUCTURE, MEMBERSHIP, GROWTH, ASSETS, RESOURCES, CULTURE AND PRACTICES, AND HOW ANY OR ALL OF THESE CONTRIBUTED TO ANY ENGAGEMENT WITH THE COMMUNITY, CONSTITUTED AUTHORITIES AND THE SECURITY AGENCIES.

8.1 BACKGROUND

In the Commissioned Research Paper by Professor Baffa, he gave a very detailed background on the development of the IMN. The background of the Islamic Movement in Nigeria, with its members popularly known as “brothers”, now dubbed as “Shiites” should be situated within the context of the unfolding events in the Muslim world and the ensuing encounters with the western world and Israel in particular. Specifically, the legacies and events in Islamic Republic of Iran significantly contributed to its growth and ideological underpinnings. In Nigeria however, apart from the global influence, the genesis of the IMN started with the ‘Islam Only’ protest in the 1970’s by Muslim Students Society (MSS) in Ahmadu Bello University, Zaria over altercation with the Federal Government on issues sensitive to Muslims. The Muslim body rejected the secular system of government and emphasized on asserting Muslim identity and Islamic supremacy.

8.2 FINDINGS/OBSERVATIONS ON THE ORIGINS OF IMN

- i) The origins of the Islamic Movement in Nigeria (IMN) can be traced to students’ activism within the Muslim Students Society in Ahmadu Bello University in 1979. Subsequently the organization transformed into an ideologically focused mass religious movement. The IMN emerged out of the changing national and global contexts of the evolution of Islamic Movements that have been proliferating in Nigeria and many Muslim Societies around the world since the 1970s. Some of these movements were focused on religious issues such as reform of doctrines and rituals, moral regeneration and increased piety.

Others however were more engaged in political activism, including demands for replacing the modern secular state with an Islamic polity to be governed according to the Shari’a. Some other Islamic movements embarked upon social projects of establishing Islamic organizations and associations, schools and mosques, and articulating Islamist discourses in print, electronic, digital and social media. The memoranda submitted to the Commission by Professor Dahiru Yahya and as well as the commissioned Research papers by Professors M. S. Umar, A. R. Mustapha and B. A. Umar attested to this.

- ii) Context is very important to the emergence of the IMN. In 1978, the Shari’a became a major bone of contention in Nigerian politics. An acrimonious debate emerged during the 1978 Constituent Assembly over the question of the Shari’a. Specifically, Christian and Muslim members of the Assembly

differed over a proposal for the establishment of a Shari’a Court of Appeal. Many Christians saw the suggestion as the first step towards the establishment of an Islamic state in the country. Muslims on the other hand argued that the establishment of the Appeal Court was a logical extension of the existence of inferior Shari’a courts, which Muslims had been demanding for a long time. In the compromise that emerged, the Shari’a Court of Appeal was established but its appellate jurisdiction was limited to Islamic Personal Law.

The young idealists in the MSS were in essence projecting their understanding of the Shari’a debate and engaged in advocacy to defend their rights as Muslims to live under Shari’a. The notion of “Islam Only” emerged at that time as a political demand and it was subsequently reinforced by the Iranian revolution as a road map that could lead to its realization.

- iii) The most directly relevant factor for understanding the emergence and development of the IMN has been the Iranian revolution of 1979, the consequences of which have continued to influence events not only in Nigeria but also in many parts of the world.

The Iranian revolution itself was a culmination of several developments that have been building up in most Muslim societies. The decade of the 1970s saw the steady rise of the great disenchantment with the failures of secular nationalism to deliver the key promises of independence from colonialism, most notably economic prosperity, political freedoms and good governance. The Iranian revolution gave Muslims’ disenchantment decisive political expressions; in

particular the rejection of the national political context of the modern secular state, hostility towards the economic, political and cultural dominance by the United States and Western Europe, and the oppressive role played by Israel in the Middle East. This development has been termed variously as “political Islam”, “Islamism”, “Islamist Politics” and “Global Jihadism”. The core of the Islamist political project is the demand for replacing the secular Westphalian state with the Islamic polity governed by Shari’a. It is a political project that is invested with strong religious convictions that has been pursued through various tactics and strategies since 1979. The tactics of these movements have included the participation in democratic politics to reform the system from within where possible, withdrawal from conventional politics and the mainstream of the society deemed to be too impure to be reformed from within, active rebellion against the authority of the modern secular state, or waging jihad to impose militarily the Islamist political project.

- iv) The IMN manifests these ripple effects of the Iranian revolution that are still reverberating in many Muslim societies around the world. Student activism within the framework of Muslim Students’ Society (MSS) provides the immediate local background for the emergence of IMN. From the late 1970s, members at Ahmadu Bello University, Zaria, began to radicalize the MSS; holding street demonstrations to support their call for “Islam only” and burning copies of the Nigerian Constitution to protest the secularity of the Nigerian state. At this stage the model for the young activists was the

Muslim brotherhood of Egypt from which they got their initial name – Muslim Brothers.

After the success of the Iranian Islamic revolution of 1979, the Muslim Brothers started voicing strong support for the revolution, this marked a turning point in the emergence of IMN within the national context of the proliferation of Islamic movements in Nigeria, and the international context of the rise of Islamic political activism. It also marked the movement's deviation from the traditional Sunni belief to the adoption of the Shia creed. The transformation from Sunni Islam to Shi'ism was done under the leadership of Sheikh Ibraheem El-Zakzaky.

8.2.1 RECOMMENDATIONS

- i. Nigeria has a number of religious movements and practices, many of which are relatively new and have introduced new beliefs and practices. There should be regular studies of new religious movements by research institutions for improved understanding of their nature and activities.
- ii. Nigeria's Constitution guarantees religious freedom and belief, which must be respected. Nonetheless, security agencies should closely monitor religious movements to ensure their practices and actions and ensure that those that conflict with our laws are contained.
- iii. The Nigerian State should commit itself to transparency, accountability and good governance to create within citizens a sense of

belonging to a Nation that provides for their welfare and security as stipulated by the Constitution.

- iv. A more deliberate strategy is required to develop in all Nigerians belief and commitment to the Nigerian State. In this context the teaching of civics in all primary and secondary schools in the country is recommended. A national civics curriculum should be developed for this purpose.

8.3 FINDINGS/OBSERVATIONS ON IMN LEADERSHIP

- i) The most important person in the emergence and subsequent evolution of the IMN has been Sheikh Ibraheem El-Zakzaky. He was a student at the department of Economics of Ahmadu Bello University, Zaria (ABU) from 1976-1979. While in the institution, he was an active member of the Muslim Students' Society (MSS) at both the campus and national levels. He was elected the MSS National Vice-President for international affairs in 1979. Earlier in 1978 when he became the Secretary-General of the MSS at the university, El-Zakzaky was “the main brain behind the nationwide demonstrations in support of the inclusion of Shari’a in the Nigerian constitution.”

The IMN started out as a body of youth in their teens, late 20's and early 30's with lots of zeal, inadequate experience, limited knowledge of Islam and oblivious of the intricacies and consequences of accepting a creed alien to the established Islamic tradition in Muslim

circles in Nigeria. At the onset, the core group that was to develop into the IMN expressed its commitment to the 1804 jihad of Shehu Usman Dan Fodio in Bilad al Sudan. The jihad, which covered much of the area of the present Northern Nigeria, was in the eyes of some of these young and idealistic Muslims an exemplary, legitimate and acceptable Islamic revolution, which created a society based on justice and religious convictions. It was in furtherance of this perspective that the IMN has been establishing its Fudiyya schools. It is ironical, however, that when they converted fully to the Shia creed, they not only became less respectful of the Jihad but they repudiated the fundamental Sunni teachings of Shehu Usman Danfodiyo and became abusive of the Caliphate and its leaders, the Emirs.

- ii) Following the Iranian revolution of 1979, the influence of the Shiite belief started penetrating some of the leaders of the Muslim Brothers as they were then known and some of them travelled to Iran to celebrate, commemorate and/or participate in the festivities of the Iranian revolution. This participation availed them the opportunity to physically witness and appreciate the cultural renewal taking place in the country. Ibraheem Yakubu El-Zakzaky who had a deep admiration of the revolution in Iran made the visit. He had the opportunity to personally meet with the leading figures of the Iranian revolution and was honored to join the prestigious World Assembly of the Ahl Bait. Sharing his personal experience of the visit in the IMN's newsletter,

The Struggle(1992,31), Sheikh Ibraheem El-Zakzaky said: *“When I was here (Tehran) during the first anniversary of the victory of the revolution, I could not express what I have seen, but someone was telling me that it was not possible to narrate verbally what one has seen, but the only way to do it was to try and emulate and practicalise it in action so that the people would now see what you have seen rather than hear your voice.”* The most significant feature of El-Zakzaky’s visit was his meeting with the leader and soul of the Iranian revolution, Imam Rouhullahi Masawi Khomeini. From his account of the meeting, it was an opportunity for inspiration and spiritual rebirth. Following the visit, Sheikh Ibraheem El-Zakzaky became an adherent of Shia Islam although he did not show it clearly until around 1994.

- iii) Sheikh Ibraheem El-Zakzaky subsequently engaged in what was to become his life commitment; to plant and grow a Shia informed ideologically committed religious movement, the IMN. Over the past 35 years, Sheikh Ibraheem El-Zakzaky has succeeded in spreading the Shia creed and growing its membership in Northern Nigeria in particular and indeed the whole country.

The idea of the name Islamic Movement in Nigeria might have benefitted significantly from the ideas and writings of Dr. Kalim Siddiqui, founder of the magazine Crescent International and director of The Muslim Institute in London. In 1976, he had published a book The Islamic Movement: A Systems Approach. He

subsequently became a lifelong supporter of the Iranian revolution and Crescent International became a major ideological and mobilization tool for the Iranian revolution all over the world. As the magazine circulated widely in Nigeria, it's easy to imagine adding “in Nigeria” to the propagated concept of “Islamic Movement” to coin the name “Islamic Movement in Nigeria”.

- iv) The rapid growth of the IMN is not due to proselytization alone. Over the period in consideration, Nigeria was saddled with protracted economic recession; corruption and military authoritarianism, which created an atmosphere that, favoured the search for an alternative system. It was in that context that religious mobilization within Islam and Christianity grew and conflicts engendered entered the fray of political contestation. The IMN took advantage of this predicament by critiquing the state and appealing to the general public, especially Muslims to reject what they considered to be an un-Islamic system. The argument was that the Western styled system in practice was not the panacea to the economic woes the nation was painfully going through. IMN remained dogged in its scathing criticisms against the state. The ideological message spread was that the existing secular policies could not provide jobs, health care, food, education etc to the millions of deprived people in the country. The Commissioned Research Paper by Professor B. A. Umar quoted a 1982 Bayero University

undergraduate student thesis of A. M. Yusuf of the Sociology Department, in support of such ideological message of the IMN: “The root (of) the disturbances were sown around 1973/74 session when palpable disenchantment with Western ideas that promised so much and delivered little...Ahmadu Bello University began to witness riots...where El-Zakzaky and other students were dismissed because of religious activities.”

- v) One of the important factors that helped IMN to gain initial acceptability and begin to attract a followership was the tactical association it established with Nigeria’s *Sufi* orders, the *Tijjaniyya* and the *Qadiririyya* in particular. These orders had been facing stiff competition from the *Wahabi/Salafi* movement generally known as *Izala*. The *Sufi* orders in Nigeria initially saw the young activists of the IMN who were gravitating towards Shiism as an ally that would help them checkmate the advance of the *Izala* and their *Salafist* creed. The tactical association created opportunities for accessing *Sufi* mosques and sometimes engaging in preaching to gain adherents for Shiism. The Shiites actively and deliberately aided this trend when, using their tactics of *Taqiyya* (hidden identity), they outwardly embraced the *Sufi*’s practices, paying homage to their sheiks, praying in their mosques and participating in their religious festivals and ceremonies. In the process, the IMN was able to recruit from the *Sufi* orders.

- vi) The IMN developed other effective methods to attract new followers. These include providing means of livelihood to potential members, the offer of credit and/or equipment to start an occupation and the direct catering of the needs of members. These are methods used by most religious groups in the country. The IMN however has another practice, which is original. It is the practice of temporary marriage known as *mut'ah*. This practice is particularly attractive to young persons. At least three memoranda presented to the Commission from two Shiite breakaway organizations from IMN: *Jama'atu Tajdidil Islamiyya* and *Rasulul A'azam* Foundation (RAAF) and one person who described himself as a potential Shiite (Prof. Dahiru Yahaya) have confirmed before the Commission this Shiite practice.
- vii) One important finding of the Commission related to the success of the rapid development of the IMN over the past three decades is the reality of the very open access to Nigeria's religious space to all and sundry. Nigeria's religious sphere is very open to a wide range of actors who have multiple motivations and objectives, some of which are spiritual while others are banal, materialistic or even subversive. The norms and practices of the growing number of religious movements and their activism are characterized by norms that are often antithetical to existing religious and cultural beliefs.

- viii) The Commission also found that a structural factor favors easy access to religious spaces. Nigerian State has moved away from the position it occupied in the immediate post-independence as an organ with primary responsibility for social provisioning - infrastructure, education, health, potable water and so on. Not only has it largely abdicated its responsibility for social provisioning, the state has also significantly withdrawn its commitment to promoting equitable social and economic development in the country. As nature abhors a vacuum, religious organisations were quick to seize the opportunity of occupying the terrain; using their nexus for social provisioning, solidarity and bonding as an instrument for the control of social and theological space. The State now has to play catch-up.

8.3.1 RECOMMENDATIONS

- i) The Constitution of Nigeria protects the rights of all citizens to religious freedom, belief and proselytization and these rights must be respected and protected bearing in mind that the same Constitution has placed limitations.
- ii) When however certain religious organisations and movements abuse these rights by engaging in criminal and illegal acts, the State has a responsibility to investigate and prosecute those who infringe the law.
- iii) The State is effective if it has legitimacy and state legitimacy is itself a function of the State carrying out its responsibility of providing for the security and welfare of citizens. The Nigerian State has been losing legitimacy due to a decline of

its capacity to provide for the public good. It is important for the Nigerian State to strive to provide more effective legitimate leadership for citizens.

- iv) The family is the key institution for religious indoctrination and education and the capacity of Nigerians to learn and be able to transmit religious values must be enhanced. In general, the quality of religious education within many families is relatively poor and family members, the young ones in particular, look out for external sources for religious education. While many seek for and find improved sources of religious education that enhances piety and improved religious knowledge, others fall astray and get sucked into religious groups run by charlatans and extremists. If families place emphasis on improving the quality of the religious education they provide to their children, the younger generation would be less likely to go astray.

8.4 LEGAL STATUS OF THE ISLAMIC MOVEMENT IN NIGERIA

8.4.1 Determination of Legal Status

- i) A legal person under Nigerian law is both natural and artificial. For the purposes of recognition as a person in law with legal attributes, that entitles the person to sue and be sued and acquire legal life, he must be a human being or an entity that comes into being under the law. Becoming a legal person under the law is in two categories broadly speaking. A legal entity could be created by statute and would be invested with capacity to sue and be sued in its name

for example: Nigerian National Petroleum Corporation (N.N.P.C), defunct National Electricity Power Authority (N.E.P.A). The second category of legal person created by law or under the law is of three types under the Companies and Allied Matters Act (CAMA)¹⁹ Section 21 of CAMA sets out three types of incorporated companies namely:

- a. Companies limited by shares
- b. Companies limited by guarantee
- c. Unlimited company

Once the promoters of any of these types of companies fulfil the conditions for incorporation and it is so incorporated, it becomes a person in law that can sue and be sued in its name. Sections 22 and 24 of the same CAMA provide for private and public companies. The difference between a private company and public company is as to the number of persons who could be members. For private companies, the minimum number is two and maximum number is fifty but for public companies, there is no limit to its number of membership. The point should be made that any of the three types of companies earlier identified could be private or public. Another type of legal personality created under CAMA could be found under Sections 569-589 of CAMA in Part B. These sections deal with registration of business names. This is the favourite type of registration by professionals like lawyers, accountants etc. The last type of legal personae under

¹⁹ CAP C20, LFN. 2004

CAMA is provided for in sections 590-602 under part C. This is what is commonly known as incorporated trustees. To meet the legal requirement of registration under this part, there must be proposed individuals who would be the registered trustees of the organization. This is the form of registration that is more favoured by friendly associations, literary bodies, socio-religious and socio-cultural groups, charitable bodies and so on and so forth.

- ii) It must be stated at the outset that the only legal way for the determination of due legal existence of an artificial person as discussed above is by the production of the certificate of registration or in the case of a corporation, production of the enabling law. The law in Nigeria as well as in other Commonwealth countries has crystalized that a limited liability company has a legal status different from that of its promoters and or directors. This position had been so well settled in the 19th century in the old case of Salomon vs. Salomon Co. Ltd (1896). It may be necessary to point out that the name of a limited liability company is the name that must reflect on all its documents and processes even when it has to do with court issues. But for a business name, one cannot sue in that name except by prefixing the name of the proprietor or proprietors; for example: XY suing in the Name of YOA & Co. In the same vein, it is the Trustees of an Incorporated Trustee that can be sued under our laws.

8.4.2 Legal Status of the Islamic Movement in Nigeria (IMN)

- i) It is important to note from the wealth of oral and documentary evidence before the Commission that the founder of IMN, Sheikh Ibraheem Yakub El-Zakzaky was at a time a member of the Muslim Students Society of Nigeria (MSSN), a registered organisation. There was however no evidence that when he established ‘The Muslim Brothers’ that he registered the organisation. When the “Muslim Brothers” transformed into the Islamic Movement in Nigeria around 1994, it did not register as a corporate body. From the analysis about legal personae discussed above, it is clear that for IMN to acquire legal personality under Nigerian law, being a voluntary socio-religious body, it must be registered under Part C, Sections 590-602 of CAMA. As stated elsewhere in this report, the only way to know whether IMN was really registered or not is the production of its certificate of registration.

On the contrary, a witness at the hearing, who also submitted an addendum (see pp 1-3) to his earlier memorandum, Hon. Muhammad Ali of the Centre For Human Resources Development / Empowerment Initiative; took the pain of doing a search at the Corporate Affairs Commission and found out that

indeed there is no evidence of the IMN’s registration²⁰. Similarly, the Commission also conducted a search at the website of the Corporate Affairs Commission (www.cac.gov.ng) and found that the IMN was not registered. In view of this, one can safely come to the conclusion that IMN is not a registered entity under Nigerian laws.

The conclusion above should not be surprising because of the oral and documentary evidence that abound before the Commission that the leadership of IMN treats the Nigerian Constitution, its laws and authorities with disdain and lack of recognition. It is therefore the conclusion of the Commission that the IMN is an unregistered body under the law and cannot legally sue or be sued nor be proceeded against in that name.

- ii) The Nigerian Constitution however allows citizens the freedom of association and movement and members of IMN are free to associate as long as they respect the laws of the country and do not infringe on the rights of others.

8.4.3 RECOMMENDATIONS

- i. The IMN is a huge organisation engaged in activities all over the country. Its activities are sometimes injurious to other persons and organisations and it should register itself so that

²⁰ M, Ali, ADDENDUM TO THE MEMORANDUM SUBMITTED TO THE JUDICIAL COMMISSION ENQUIRY ON THE MILITARY/SHIITE CLASH OF 12TH/13TH DECEMBER, 2015 IN ZARIA.

it becomes a legal person that could sue or be sued and held organizationally responsible for its actions.

- ii. All large religious and social movements in Nigeria should also be encouraged to formally seek registration so that they obtain the status of legal personae and can be sued and can sue.
- iii. Other organisations and movements including the IMN that choose not to register must however comply with laws of the land and be prosecuted when they break the law.

8.5 NATURE, ORGANIZATION AND STRUCTURE OF THE ISLAMIC MOVEMENT IN NIGERIA (IMN)

The Memorandum submitted to the Commission by Professor Abdullahi Mahadi (pp 5-9), a one-time Vice Chancellor of the Ahmadu Bello University, during whose time as Vice Chancellor, Sheikh Ibraheem El-Zakzaky was rusticated from the university for offences not dissimilar to the current subject of enquiry, fully discussed the IMN and its leadership structure and attitude towards the State and other members of the society. Similarly, memorandum sent by the Gyallesu Community (pp 8-23) and the commissioned papers written by Professors A.R. Mustapha and B. A. Umar (pp 9-10) for the Commission, fully discussed the nature, organization and structure of the IMN.

8.5.1 FINDINGS/OBSERVATIONS

- i) Sheikh Ibraheem El-Zakzaky is undoubtedly the overall Temporal and Spiritual leader of the Movement. He holds command, respect and honor among his followers. All members obey his command and hold him in high esteem. There are dedicated *Hurras*

(Guards) who protect him and attend to the needs of his family. His recognized Deputy was Mallam Muhammad Turi (who was allegedly killed at the El-Zakzaky's house during the December 2015 clash), a highly respected and deeply religious scholar who studied accountancy at the University of Maiduguri. There are also other notable leaders such as Mallam Yakubu Yahaya in Katsina as well as others representing states that formed a consultative forum called Shura. However, these leaders were never elected but solely appointed by Sheikh El-Zakzaky.

- ii) Originating in defiance against the state and society, IMN set itself on collision course with both. Its strong conviction in the righteousness of its beliefs, rituals and political activism seems to have blinded it to the fact that majority of Muslims do not share such belief. For example, in an interview with Aminiya, a Hausa newspaper, a notable leader of the IMN, Mallam Yakubu Yahaya of Katsina was at a loss regarding why people do not appreciate the religious importance the IMN attaches to its frequent processions and street demonstrations. He seems oblivious of the aggravation and inconvenience that such processions and demonstration have been creating for other people. One of the recurrent sources of conflict with local communities is the inability of the IMN to recognize that their right to processions as a religious duty stops where the right of other people starts.

- iii) The evidence before the Commission, from the testimonies and memoranda submitted to it by the various interest groups and stakeholders, clearly shows that IMN has become a law unto itself; disregarding the authority of the Nigerian State as vested in the police and other security agencies which many a times lead to several confrontations such as the one of 12th to 14th December, 2015 between it and the Nigerian Army.
- iv) The IMN has also been castigating other Muslims for their supposed failure to rebel against what they see as the ungodly power of the secular state and its man-made laws and by this act it appears hostile to the Muslim communities in which it exists.
- v) Other acts that the Movement is accused of include but not limited to:-
 - a. Attacks on other citizens who do not share their views on or understanding of Islam.
 - b. Refusal to recognize the Nigerian State, its constitution, flag, National Anthem and its authority.
 - c. Insistence on supplanting the secular state with a theocracy to the extent that it is feared that the IMN may be heading towards takeover of the Nigerian state.
 - d. Incessant breaking of the law and often taking laws in to their hand.
 - e. Provocative preaching with a view to incite their members against other Muslims.

- f. Alleged ordered abduction of children from Ningi, Bauchi, Dass and Kano destined for Gyallesu to be trained as *Hurras*.

These and many more made the IMN unwelcome in the majority Muslim communities and always bring about confrontations, usually with lethal result. Evidence before the Commission showed that a number of people have been murdered by the members of the IMN on flimsy excuse both in Zaria and other places. A list of those maimed or killed has been included in other part of this report

8.5.2 RECOMMENDATIONS ON NATURE OF THE IMN

- i. A lot of evidence was presented before the Commission, as can be seen in other parts of this report, that very many infractions of the law have been committed by members of the IMN and most of the cases have not been investigated or prosecuted by the police. The Federal Government should direct the Inspector General of Police to set up task forces in State Commands to compile, investigate and prosecute lawless acts committed by the IMN.
- ii. Members of the IMN owe absolute loyalty to Sheikh Ibraheem El-Zakzaky. He therefore bears responsibility for all the acts of lawlessness committed by the organisation and should therefore be held responsible, fully investigated and prosecuted.

8.6 ORGANIZATION AND STRUCTURE OF THE IMN

8.6.1 Findings/Observations

- i) The main Headquarters of the movement is in Zaria, under the leadership of Sheikh El-Zakzaky. While his residence in Gyallesu was a beehive of the movement's activities and was guarded and protected by several guards from the IMN's *Hurras* Units. Sheikh El-Zakzaky's parlour served as the IMN's decision making forum; an open place where members were free to participate in the discussions but Sheikh El-Zakzaky had the final say. The Husainiyya was located in a large IMN compound along Sokoto road in Sabon Gari, Zaria. It was the hub of all national activities of the IMN. It hosted all regular events such as weekly lessons conducted by El-Zakzaky, *Tafsir* (interpretation and commentary on the holy Qur'an), and special lessons offered to women and other annual festivities celebrating the birthdays and martyrdoms of prominent Shi'ite clerics and personalities. Occasional activities which included lectures, seminars and Islamic Vocational courses for adults, women and children were also hosted. The Husainiyya Baqiyatillah was also the final destination for the annual trekking (*Tattaki*) of thousands of the Movement's followers coming from all over northern states; often spending a couple of nights or more along the way as well as at the Husainiyya Baqiyatillah.

- ii) The Local Branches (named *Dawa'ir* for the State and *Halqah* for LGA) refer to circles of disciples and followers guided by a local leader. These are strewn across the states of the federation but are more prevalent in the northern part of the country. All of them have absolute loyalty to Sheikh Ibraheem El-Zakzaky as their supreme leader. The States' as well as the Local Governments' Headquarters have the same approach to leadership as that of the centre, albeit having less resources.
- iii) The activities at the local IMN branches are a combination of Shi'ite religious instructions, recruitment, physical and ideological training, out-reach to broader Muslim communities in each locality and Islamist political activism. The Shi'ite religious instruction is a weekly activity that takes place in local mosques, where the heads of the local branches offer lessons for members, including women. Seminars and workshops on particular topics are also organized occasionally and speakers are invited not only from the ranks, but also from outside of the Movement. A notable feature of local seminars and workshops is that "...at the end of the programme the spiritual leader of the Movement, Sheikh Ibraheem El-Zakzaky, comes and close[s] the programme with inspiring speech. This personal visit by the leader indicates an important organizational link between the local branches and the national headquarters as well as reinforcing members' loyalty to El-Zakzaky's supreme leadership.

- iv) Recruitment and ideological training at the *Da'irs* and *Halqahs* are conducted in local meetings, “...where Brothers (IMN members) gather in mosques and spend days making deep study...as well engaging in intensive spiritual exercise and devotion. In addition, some physical exercises are also embarked upon to inculcate a culture of endurance. At the end of *Ijtima* (i.e. local branch meeting), usually on the last night, a brainstorming session takes place where various problems facing the movement in that particular locality are discussed and solutions are proffered. Usually participants come back home changed and full of spiritual illumination” ²⁵.
- v) Specialised organs of the IMN: In addition to the National Headquarters and numerous *Da'irs* and *Halqahs* (States and LGA branches respectively), there are also seven specialised organs of the IMN charged with specific duties and responsibilities:
 - a. **Academic Forum** - This is made up of educated members of the Movement. This organ is responsible for the intellectual, doctrinal and ideological matters. It organizes several events, including lectures, seminars, workshops, conferences and Islamic Vocational courses. It is also the vital link of the IMN to educational institutions.
 - b. **The Martyrs Foundation** - This was established to cater for the bereaved families of members who

have lost their lives in the course of IMN activities. The Foundation collects and distributes charity to the surviving family of the deceased members; it also honors their memory by the annual commemoration of the martyrs.

- c. **The Sisters Forum** - Women members of the IMN are prominent and active participants in the Movement's activities. Completely covered in black, and present in large numbers, women are very visible in all IMN public events. Malama Zeenat, the wife of Ibraheem El-Zakzaky, and other important figures at the State levels, organize educational services, *Mu'atamar*, lectures and support services.
- d. **ISMA Medical Care Initiative** - Various medical and healthcare professionals in the IMN constitute the membership of this organ. They are responsible for providing healthcare and medical attention to IMN members and the general public.
- e. **The *Hurras*** - This is the unit of the IMN guards who wear uniform. They provide protection to El-Zakzaky and other IMN leaders. They are in charge of patrol and control of traffic during street processions and demonstrations. It is widely suspected that the *Hurras* received para-military or even military training (see video clip presented by the Nigerian Army exhibit 2 and exhibit 17, 18 and 19 by Hon. Muhammad Ali).
- f. **Business Forum** - This forum aligns with the professional and business world. It assists the IMN

members to be self-reliant by providing soft loans in the form of cash, machineries or vehicles to the members. It is said that hundreds of motorcycles and tri-cycles have been distributed to members with the understanding that they pay back the capital over several months' or even years' instalments

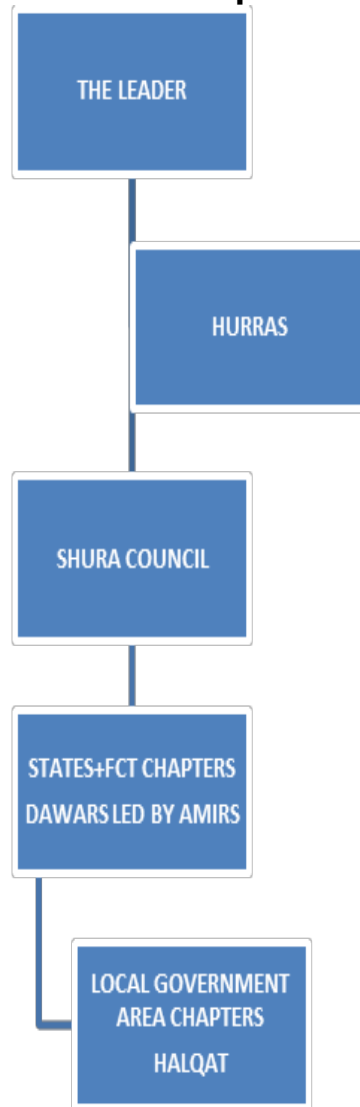
g. **Communication Forum** - The IMN has a very strong public relation outfit and spokesperson. In addition, they have many publications for both educational and ideological defence purposes. For example, there is a strong media outfit that publishes the following newspapers, newsletters and pamphlets both in English and Hausa, such as *Al-Mizan*, *The Struggle*, *The Pointer*, *Gwagwarmaya* and the IMN website.

vi) Also adding to this formidable organizational capability of the Movement is its culture of strong loyalty to the leader, Sheikh Ibraheem El-Zakzaky. In the course of leading the IMN for over three decades now, El-Zakzaky has earned the unwavering loyalty of multitudes of his followers. The street demonstrations he used to lead, the extensive tours of recruitment he carried out, and the many years he spent in detention have all added to the mystic of his leadership. IMN publications and documents are replete with constant encomiums, adoration and prayer for Allah to protect him. This culture of loyalty to El-Zakzaky could be seen regularly on the pages of *Al-Mizan*, the IMN's weekly Hausa newspaper which often carries stories and

“TOP SECRET”

pictures of El-Zakzaky addressing large crowd of his loyal followers.

8.6.2 Organogram of the Leadership of the IMN



“TOP SECRET”

8.6.2 Recommendations on Organization and Structure

- i. The IMN is a tightly knit organisation in which members owe absolute loyalty to the leader. Constituted authorities and security agencies should hold the leader responsible for all acts by members that are based on direct orders from him.
- ii. The leader and members who engage in illegal acts should be held responsible for any lawless acts they carry out.

8.7 MEMBERSHIP AND GROWTH OF IMN

8.7.1 Findings/Observations

- i) The membership and growth of the Islamic Movement in Nigeria (IMN) should be understood within the changing national and global context of the evolution of Islamic movements that have been proliferating in Nigeria and many Muslim societies around the world since the 1970s. Some of these movements have focused more on religious issues, such as reform of doctrines and rituals, moral regeneration and increased piety. Other movements have embraced significant political activism, including demands for replacing the modern secular state with an Islamic polity to be governed according to the Sharia. Yet, other movements have embarked upon social projects of establishing Islamic organizations and associations, schools and mosques, and articulating Islamic discourse in print, electronic and social media. IMN being mixed-bag of all of the above, and with its vehement opposition to a secular Nigerian State and the

rhetoric of absolute condemnation of the “corrupt” governing system, it attracted more and more disenchanted youths in the educational institutions of the North at first and subsequently across the entire region.

- ii) The membership profile of the IMN has changed over the years due to its tremendous growth. The movement, which started in the 1970s as a body of youths in their teens, twenties and thirties, with lots of zeal but inadequate experience and knowledge of Islam, grew several folds, with prominent academics, professionals, businessmen, artisans, civil and public servants and religious leaders in its membership. Though there are no reliable statistics as to the exact number of membership, the rate of growth and demographic characteristics, it is clear even from field observation that its membership growth could be anywhere between 60,000, a figure arrived at by the Jama’atu Tajdidil Islamiy in its memorandum (pp. 29-34. A notable feature of the IMN membership is the prominence of women, who may be as many as men. Youths, aged 30 years or younger, are more prominent but there are also older people in the membership fold of the Movement.
- iii) There are many factors that contribute to the membership and growth of the IMN and indeed other movements over the years. These factors range from Economic, Political, Social and other constraints. Politically, factors that may have contributed to the rise of movements such as the IMN include the negative consequences of the prolonged hold on power by the various military regimes, the high levels of governance deficits as evidenced in the poor provision of

social services, rising wave of crime and worsening of the security situation. Legendary corruption in Nigeria, which has devastated all government institutions, is another major factor in the rise and growth of movements such as the IMN.

- iv) In addition, the emergence and rapid development of religious movements such as the IMN could not be divorced from the explosive population growth, rapid and uncontrolled urbanization with attendant high level of unemployment and poor provision of social services. Therefore, the emergence, development and growth of the IMN has been shaped by these political, economic and social changes that have been taking place in Nigeria over the last three decades. Pertinent also are the many changes that have been happening in Muslim societies around the world. Needless to say, the most directly relevant factor in understanding the emergence and growth of the IMN has been the Iranian revolution of 1979; the consequences of which have continued to influence such movements, not only in Nigeria but also in many parts of the world.
- v) The rapid growth of the membership of the IMN is also due to the following factors:

- (a) The use of the Fudiyya schools which have proliferated all over the North to indoctrinate children. Indeed the children of both Shi'a and non-Shi'a parents are trained and in the process made to imbibe the Shia creed and practices at a very early age. The overwhelming majority of youths that are always in the forefront of the IMN activities and clashes were the products of such schools.

- (b) The use of their Academic Forum serves as a means through which the Movement attracts young university and other tertiary institution students into the fold of its creed. The movement offers various types of educational assistance to the needy both at home and abroad, with the understanding that it was for facilitation of joining the Movement. At the last count, there are over 300 students studying in various tertiary institutions in Iran; all sponsored by either the IMN and its Iranian friends or the Iranian government
- (c) **The IMN has an elaborate social welfare programme** - The Movement provides assistance in terms of business soft loans, medical provision to the needy, marital assistance, scholarships and a host of others help to lure and keep many in to the fold of the Movement.
- (d) **There is the provision of *Mut'ah* Marriage** - This is a form of temporary marriage, which allows for a sexual relationship, albeit for a short period of time, without any permanent marriage commitment. Most Muslims consider this practice as a tactic to side step the rigorous Islamic rules on man/woman sexual relationship. This practice resonates very well with young persons who find an easy and “lawful” means towards sanctioned sexual gratification without incurring either sin or responsibility. The practice appears to attract a lot of both young men and women to the fold.

(e) **Use of Print and Electronic Media** – the IMN uses the following Print and Electronic Media for its rapid growth in membership:-

i) ***Al-Mizan Newspaper:***

This is a Hausa Newspaper published weekly, for well over two decades now. Overtime it has gained a very large and well spread readership, especially among less educated, literate Hausa speaking population of Northern Nigeria. Although the mass population of Northern Nigeria is preponderantly a listener society, almost wholesomely hooked to the radio, *Al-Mizan*, however, made a very pervasive impact because of its penetration of the lengths and breadths of the North. Even more remarkably, is its popularity in the rural areas where there is a very large population of young men and women that went to secondary schools that either completed but could not proceed to higher institutions of learning, or those that dropped out along the line. This category of people, incidentally, forms a very significant size of the IMN membership. The reach of *Al-Mizan* became all the more stretched and penetrating when, for about a decade now, it went online. Its electronic debut by far, and much earlier, was much more spectacular than most of the mainstream and very famous Nigerian newspapers.

ii) The Social Media:

The social media, as it were, has not only made the access to information much easier, but has also made its dissemination much more indiscriminate, free, loose, arbitrary and explosive. It has availed everybody, individuals and groups the wherewithal and the outlet to reach out to the world without an sort of sanction or censorship. It has demystified the formal press and has dismantled the monopoly and dominance of the mainstream media. The IMN, like many other ideological, religious, political and social activist groups, has leveraged on the ostensible outreach opportunity provided by the social media. Not surprisingly, therefore, it would not be an overestimation to state that Facebook, What Sapp, MySpace, YouTube, Instangram, etc., groups opened and managed by IMN affiliate groups and Individuals may be in thousands

iii. The IMN Website: There would not be any fear of contradiction if it is asserted that in Nigeria, there is hardly any Islamic Religious body whose website is as excellently designed, fully functionally and regularly updated like that of the IMN. Expectedly, and without dismissing the influence of all other means of propagation, the IMN website has been the most effective in reaching out to the elite population in Nigeria and

the world at large.(see for example, IMN’s Website www.islamicmovement.org).

8.7.2 Recommendations on Membership Growth

- i. The Federal Government should monitor activities of all Nigerian Nationals studying in Iranian institutions in particular and other countries in general to ascertain their courses of study, source of sponsorship and on return their activities.
- ii. Government at Federal and State levels should address the worsening economic problems that push, especially, young men and women to join the movement in search of relief from doing nothing.
- iii. Fudiyya schools should be closely monitored by the relevant government agencies.
- iv. The Kaduna State Government, through the Ministry of Education, Science and technology should monitor the curriculum of the Fudiyya schools just like it does of all other private schools in the state to checkmate the level of indoctrination into the Shiite creed.

8.8 RESOURCES AND ASSETS

8.8.1 Membership

As is the case with most religious movements, the greatest resource and asset of the IMN is its members. They devote their time, assets, money and networks to the well-being and development of the Movement.

8.8.2 International Resources and Assets

A part from member contributions, it is also widely speculated that the IMN has access to some international resources and assets. Some of the unconfirmed but strongly believed International contributors are: Iranian religious establishments and some Lebanese businesses and networks in Nigeria. However, as IMN is not a registered organization, it cannot have bank accounts and therefore, tracing any money passed to it is very difficult.

8.8.3 Recommendations on International Resources and Assets

- i. The Kaduna State Government should investigate further how the IMN receives moneys, how it procures assets and how it runs its businesses to ensure that the organisation does not engage in illicit activities.
- ii. The Federal Government should investigate foreign resources and assets that might be accruing to the IMN to ensure that the organisation is not involved in illicit activities such as money laundering and terrorism

8.8.4 CULTURE AND PRACTICES

Through the leadership of IMN, legacies of Iranian culture and civilization have penetrated the movement. While the movement lays formal claim to the religious and political legacy of the Jihad of Shehu bn Fodio, their practices have been re-oriented towards Iranian Shiite religious and cultural heritage. The IMN was swayed and influenced by the cultural accomplishment of Iran. Currently the influence is

manifesting in the way they convert to Shiism, in dress, festivals, celebrations and funeral services etc. Some of their adopted practices are alien to the cultural disposition of other Muslims in Nigeria.

The IMN, for example, celebrates a number of annual religious festivals in which other Muslims do not. Such festivals include:

- i. Maulud of the prophet and hoisting of flag
- ii. Maulud of Ali
- iii. Maulud of Fatima
- iv. Ashura 10th Muharram
- v. 40th day celebration of the martyrdom of Imam Hussain
- vi. Quds day (last Friday of Ramadan)
- vii. Martyrs' day

They also organise a number of occasional festivals:

- i. Women's Forum
- ii. Fudiyya Schools' Graduation ceremony

The major expression of their organisational culture is total submission to the directives of the leader. The Commission found out that not a single current member of the Islamic Movement in Nigeria sent in memoranda or came to give evidence. This is a clear indication to the control of the leadership over all members. Such a strong command and control mechanism in such a large organisation could create conditions for dangerous mass action should the leader give such a command.

8.8.5 Recommendations on Culture and Practices

- i. While celebrating such festivals, the IMN should be made to comply with all the relevant laws and should be subjected to sanctions for breaches.

- ii. FRSC should live up to its responsibility for traffic control and the enforcement of all traffic laws during such festivals.
- iii. The Police should monitor all such gathering with a view to stopping any breach of peace

8.9 ENGAGEMENT WITH COMMUNITIES, CONSTITUTED AUTHORITIES AND SECURITY AGENCIES

8.9.1 Communities

The generality of memorandum submitted to and the appearance of groups and individuals who testified before the Commission, all point to a life of hostility between the IMN and other mainstream Muslims. There is no love lost between IMN and its neighbours. According to a commissioned paper written by Professor B. A. Umar, “...those who are opposed to the Shia creed they complain the IMN members have dominated their wards especially at Gyallesu where Mal. Ibraheem El- Zakzaky resides with heavy presence of *Hurras* security guards...” Another major sore point in the IMN’s relationship with the public is the way their long procession on major roads or highways blocks sections of the road causing traffic congestion and a lot of hardship to people. Their nonchalant arrogance, in the face of such painful treatment they meet out to other Muslims makes it even more unbearable and provocative.

8.9.2 Authorities

Professor B. A. Umar summed up the IMN relationship with the Authority in his commissioned paper thus: “Since the ideology of IMN is anti-government in orientation, from its inception, and because its leadership and thousands of its followers have been

“TOP SECRET”

jailed a number of times, the relationship with authority is bound to be un-cordial, dramatic and sometimes deadly.” The relationship has been that of mistrust, distrust, suspicion and disregard and fear of perceived impunity and intransigence from both parties respectively. In the last three decades or so it has been a game of cat and mouse between the two distrusting parties. This turbulent relationship extended well in to the relationship between IMN and the security agencies that IMN sees as just an extension of the Authority it had been battling all along.

“TOP SECRET”

CHAPTER NINE

TOR (H): TO REVIEW ALL FACTORS, ISSUES OR MATTERS, INCLUDING ALLEGED INVOLVEMENT OF FOREIGN OR DOMESTIC ACTORS OR THEIR INFLUENCE OR INSTIGATION, THAT MAY HAVE CONTRIBUTED TO THE INCIDENT OR MAY CONDUCE TO SUCH INCIDENCE IN THE FUTURE AND MAKE RECOMMENDATIONS THERETO

9.1 BACKGROUND

Professor B. A. Umar, while drawing a conclusion in a research paper ordered by the Commission, reviewed the journey of the IMN’s growth from its infancy to date. He had this to say:

The growth of the IMN from infancy to maturity had witnessed major upheavals and transformations. At the beginning there were youth with limited knowledge of Islam, but with deep religious fervour, keen interest in Islam and with little experience in confronting and handling complex Nigerian State. By far the most serious challenge was drawing inspiration from Iranian cultural and religious milieu of Shiism, which now complicates matters both within the fold of Islam between different groups, who reject Shia ideology; and, also between IMN and the secular State which is averse at establishing a theocratic State. IMN’s large flock of adherents are not easy to control...

As if on cue, in a speech delivered after the Islamic Vocation Conference in Funtua in 1980, dubbed as the “Funtua Declaration”, Sheikh Ibraheem El-Zakzaky, perhaps, “with keen interest in Islam and with little experience in confronting and handling complex Nigerian State”, set the

ball rolling in what would lead to IMN’s formation and its perpetual confrontation with the State, when he declared categorically thus:

“I declare to you all, and Allah is my Witness, that I rebel against the Constitution of Nigeria, its laws and leaders. I do not accept anyone of these. Instead, I do affirm my faith in Book of Allah, His Sharia, and the leadership of the Messenger of Allah.”

It was therefore only a matter of time before the IMN and the State, and IMN and its host communities would lock horns; even though three decades later he somewhat reluctantly accepted the Nigerian State in a lecture titled Nigeria at 50: What next?, which he delivered at the 6th Annual Conference of the IMN’s Resource Forum that took place at the Foudiyya Islamic Centre, Zaria, from 29th – 31st October 2010.

Above background to the IMN formation, its ideology, philosophy and growth, not only set the stage for but contributed in no small measure to its subsequent confrontations with and other defiant actions against the State, leading to injuries and deaths on both sides, such as in the case of the incidence before this Judicial Commission of Inquiry.

As IMN grew in to the formidable organization we see today, it was variously believed to enjoy both domestic and foreign backing, particularly in its funding. In the domestic scene, the Commission has established, from individuals’ verbal testimonies and memoranda submitted by various stakeholders that one source of its funding is the contribution from the large membership in its fold. In a Research paper uploaded on the internet website called Academia (see www.independent.academia.edu) titled Dynamics of Islam in Nigeria: The Origin and Spread of the Islamic Movement in Nigeria (‘Yan Shi’a), Abubakar Zaria Ibraheem, a lecturer in the Department of History, Ahmadu Bello University, Zaria, identified one of the organs of the IMN,

Ahl al-Dhuthour (‘Resource Forum’), as the biggest domestic source of funding:

“The Resource Forum comprises of working class and businessmen. Members of this organ include people who are working in various sectors of Nigerian economy such as doctors, lawyers, engineers, bankers, pharmacists, contractors, traders, bakers, transport owners and senior academics. Although every member of the IMN is a financial contributing member, the larger financial resources of the movement are sourced from the members of this organ...”

Similarly, Professor Dahiru Yahaya, while being cross examined before the Commission by the Counsel to Jama’atu Nasril Islam and Others, Mr. Katu Esq., stated that the IMN’s substantial funding comes from membership contribution:

Mr. Katu Esq.: *Do you know how IMN is funded?*

Professor Yahaya: *They generate funds among themselves. They help each other.*

Further in his memorandum to the Commission (p.11, XLIII. h), Professor Yahaya did not rule out the involvement of both the domestic and foreign factors in the affairs of the IMN:

“One may not rule out the possibility of the involvement of foreign and domestic factors in this crisis. The world has become a global bedroom from where you can see and hear what is in the whole world and even communicate from the comfort of your bedroom.” He said.

The Jama’atu Tajdidil Islamiy (JTI), a split away group from the IMN, submitted a memorandum and appeared before the Commission. Whereof asserted that IMN is involved with foreign actors in Iran, Lebanon, Ghana and Niger Republic. It gave example of the IMN’s

annual procession (‘tattaki’) to mark the end of the forty days of mourning the death of Imam Hussain, where Shiites from countries such as Cameroon, Chad, Niger and Ghana all troop to Zaria for the event. The JTI also cited the involvement of the Iranian Embassy and the Lebanese Community in Nigeria, especially that of Kano, with the affairs of the IMN; giving it support through sponsorship of members to attend training and other educational pursuits in Iran, Ghana and Lebanon.

9.2 FINDINGS/OBSERVATIONS

9.2.1 Domestic Actors

In addition to the generalised involvement of various actors above, there are domestic actors whose influence is crucial for the growth, activities and impact of the Movement. These include but are not limited to the following:

- i. The person, personality of the leader, Sheikh Ibraheem El-Zakzaky:

He is a charismatic leader whose influence cannot be over-emphasized. He inspires fierce loyalty from members of the IMN. Furthermore, he personifies defiance, opposition to existing state institutions, structures and values. El-Zakzaky does not appear to want a reform of the existing state and its structure but its replacement with one based on radically different principles and foundations, with supreme authority derived from Allah.

- ii. Lebanese community in Nigeria.

Deriving inspiration from Iranian revolution/Hezbollah and alleged to be receiving financial and other support from Iran and Lebanon respectively, some Lebanese individuals in Nigeria and their broad community are important actors. Furthermore, there are references

to books, other reading materials and video materials being imported into Nigeria by elements in the Lebanese community in this country.

- iii) Even more difficult to prove but no less important is the allegation of the IMN having sympathizers, which includes politicians, academics/intellectuals, business leaders and some officers and men in Nigeria’s security agencies. This category, spread over different professions and socio-economic backgrounds is believed to have been influenced into joining the Movement by “General Islamic awakening in the World”.

9.2.2 INTERNATIONAL ACTORS

9.2.2.1 IRAN

The prevailing narrative is that the IMN has received and continues to receive huge support from the Islamic Republic of Iran. The support is believed to have several dimensions including direct donations and finance, offers of scholarships to and training of cadres of the IMN members in Nigeria. In its memorandum to the Commission, the Kaduna State Command of the State Security Service (SSS) wrote inter alia:

“Sustained monitoring of the activities of the group revealed an established pattern, suggestive of access to foreign donations, especially from the Islamic Republic of Iran...”

Evidence of Iranian support for IMN cited includes activities of the former diplomats and cultural offices in Nigeria and generous scholarships to Shiites to undertake studies in Universities and Institutions of Islamic education in Iran.

9.2.2.2 LEBANON

Apart from the activities of the Lebanese Community in Nigeria, there are allegations of support for IMN from Lebanon. This may be derived from ideological affinity with Hezbollah and the vision of an alternative state and state structures. In a video clip shown to the Commission, Sheikh Nasrallah of the Lebanon's Hezbollah was asking his congregation to pray for the IMN in Nigeria and warning that if Nigerian Government did not release Sheikh Ibraheem El-Zakzaky it will never know peace.

9.2.2.3 GHANA/NIGER

While Ghana is another place that IMN sends its members for training, in Niger Republic the population of the movement is ever on the increase. In fact, it is second to Nigeria in the membership of the Movement.

9.3 OBSERVATION

It is obvious to the Commission, from the evidence before it, that IMN has relationship with other international organizations and or countries. The glaring involvement of Iran in the affairs of the IMN cannot be overlooked. We have heard of the Iranian foreign ministry summoning our ambassador to that country regarding the incidence under reference as if it happened in one of the Iranian provinces. Even though it could not be clearly established about foreign funding, however, from the memorandum submitted by the SSS, in which it said it had been monitoring the movement, the Commission can safely conclude that there is a pattern that suggests so.

9.4 RECOMMENDATIONS

- i) The Federal Government should investigate further how the IMN receives money, how it procures assets and how it runs its businesses to ensure that the organisation does not engage in illegal activities.
- ii) The Federal Government should investigate foreign resources and assets that might be accruing to the IMN to ensure that the organisation is not involved in illegal activities such as money laundering.
- iii) The suspected Lebanese Communities should be put on a watch-list to ascertain the veracity or otherwise of the accusation of their involvement with the Movement.
- iv) The Federal Government must explore all diplomatic channels to dissuade Iran from getting involved in the internal affairs of the country.
- v) Suspected domestic sympathizers must be watched carefully and ensured that they do not go beyond the limits of the law in their support to the IMN.

CHAPTER TEN

TOR (I): TO MAKE RECOMMENDATIONS TO THE KADUNA STATE GOVERNMENT AND THE FEDERAL GOVERNMENT AS TO DIRECT OR INDIRECT RESPONSIBILITY FOR ANY ACTS OF COMMISSION OR OMISSION IDENTIFIED IN SUB-PARAGRAPH (E) ABOVE.

10.1 BACKGROUND

The purpose of identifying acts of commission or omission, as required in TOR (e), was to establish definitively those individuals, groups, organizations or institutions that should be held responsible or accountable on particular actions or inactions that led to or got involved in the incident under investigation by the Commission. As it were, this was an incident of monumental gravity involving very weighty human right matters and the all-important and critical issue of national security, peace and stability. These are matters that must not be brushed aside, nor yet handled with levity for two fundamental reasons namely, (i) the enormity of the wages and consequences of flagrant failure to secure or protect the fundamental rights of every citizen, and (ii) the unsavoury and unacceptable nature of any form of defiance or rebellion to constituted authority in a manner that threatens national security. The real purpose and essence of appointing this Commission are, therefore, epitomized in this particular TOR (i). Those individuals, groups, organizations or institutions that acted or refused to act in ways that led to trampling upon the rights of others must be brought to justice. Similarly those individuals whose actions and tendencies are not only

defiant, but also threatening the security of the country must be dealt with squarely according to the laws of the land.

It is instructive to further emphasize here that the direct parties involved in this incident are the NA and the IMN. While this does not in anyway dismiss the importance of other parties and stakeholders in bearing responsibility for any act of omission or commission directly or indirectly, the centrality of the roles played by these two parties ordains the fact that the two must certainly bear larger portion of that. In this regard, the Commission gives greater attention to these two parties while it also identified other important stakeholders that must be held responsible for certain acts of omission or commission that led to or rather aggravate the unfortunate incident of the 12th -14th December, 2015.

10.2 RECOMMENDATIONS

Against the background laid, the findings/observations made in the foregoing Chapters six (6) and seven (7) respectively, this TOR contains recommendations to Kaduna State Government and the Federal Government as appropriate.

10.3 THE KADUNA STATE GOVERNMENT

- i) Considering the nature and organizational structure of the IMN, where the leader has the total control over the members, Sheikh Ibraheem El-Zakzaky should be personally held responsible for all the acts of commission and omission of the entire membership of the Islamic Movement in Nigeria in its clashes with the Nigerian Army for refusing to call his members to order when required to do so.

- ii) All incidents of violence and aggression by the members of the IMN against individuals, groups or communities, which have resulted in grievous bodily harm, destruction of properties and deaths, should be fully investigated and culprits brought to book. Where appropriate, compensations should be paid.
- iii) The State Government should investigate and repossess all illegally acquired public lands from IMN and utilize same for Public Interest.
- iv) IMN should be made to conform to all constitutional requirements and the provisions of other by-laws in obtaining land, building or acquiring structures. It must conform to all building regulations, however, whenever and wherever it so desires to build or acquire land or property.
- v) All the dangerous weapons recovered from the IMN members should be turned over to the Police for further necessary action.
- vi) The Government should deal with the IMN in accordance with the laws and regulations of the land and be made to conduct its activities and affairs within the ambit of the law at all times.
- vii) Intelligence reports by security agencies regarding threats to security, law and order should be taken seriously and acted upon timeously to nip in the bud such occurrence.
- viii) Mechanism should be put in place for the proposed Bill on Religious Preaching to be passed into law as quickly as possible and implemented with a view to purging Religious

Groups who embark on provocative teachings and preaching.

- ix) Compensation should be paid to all those persons who complained before the Commission that their properties were either destroyed or damaged as a result of the clash.
- x) The Government should make effort to reduce the number of idle hands that might otherwise be willing recruits for the Movement by providing employment to the teeming masses of the State.
- xi) The prospects of constructive engagement with the leadership of the IMN should not be foreclosed.
- xii) The State Government should ensure that investigations against all persons under detention in respect of these clashes between the NA and the IMN on 12th – 14th December, 2015 are concluded and treated expeditiously.

10.4 THE FEDERAL GOVERNMENT

- i) The State Government should ensure that investigations against all persons under detention in respect of this clashes between the NA and the IMN on 12th – 14th December, 2015 are concluded and treated expeditiously.
- vii) The Federal Government should explore diplomatic means to dissuade other Countries from interfering in the Internal Affairs of Nigeria.
- viii) The prospects of constructive engagement with the leadership of the IMN should not be foreclosed.
- ix) The Government should deal with the IMN in accordance with the laws and regulations of the land and be made to

conduct its activities and affairs within the ambit of the law at all times.

- x) All incidents of violence and aggression by the members of the IMN against individuals, groups or communities, which have resulted in grievous bodily harm, destruction of properties and deaths, should be fully investigated and culprits brought to book. Where appropriate, compensations should be paid.
- xi) Considering the nature and organizational structure of the IMN, where the leader has the total control over the members, Sheikh Ibraheem El-Zakzaky should be personally held responsible for all the acts of commission and omission of the entire membership of the Islamic Movement in Nigeria in its clashes with the Nigerian Army for refusing to call his members to order when required to do so.
- xii) Members of the IMN should never be allowed to carry any unlicensed weapon under any guise. Whosoever found so doing should be prosecuted immediately.
- xiii) All the dangerous weapons recovered from the IMN members should be turned over to the Police for further necessary action.
- xiv) Intelligence reports by security agencies regarding all threats to security, law and order should be taken seriously and acted upon timeously to nip in the bud such occurrences.
- xv) The Federal Government should have the political will to deal with such threats posed by the IMN and similar groups. Testimonies at the proceedings of the Commission by various stakeholders, pointed to non-implementation of the recommendations of previous reports of other Commissions

of Inquiry relating to the IMN and other groups who were found to have posed grave threats to law, order and peaceful co-existence. Of particular relevance were the Galtimari and Sheikh Lemu Presidential Commission pertaining to Boko Haram insurgency.

- xvi) The Federal Government should be proactive in its dealing with threats posed by groups such as the IMN.
- xvii) The Federal Government Agencies should respond positively to requests for information by Commissions of Inquiry such as this Commission to enable it make informed decisions or come to a firm findings on issues based on credible data held by them that is not in the public domain.
- xviii) The Federal Government should ensure the presence of the Nigeria Police and other Security Agencies in every community and other flash point areas for effective maintenance of law and order.
- xix) Efforts should be made by the Police Authorities to revisit the system of Nigeria Mobile Police Force Unit, as it was in the yesteryears, so that involvement of the Military in the management of civil disorder would be minimized.
- xx) The Police Authority should ensure that recruitment into the Force should be done on merit, suitability and good character as the Nigeria Police of today contains all manner of characters.
- xxi) The Federal Government should ensure professionalizing the Nigeria Police and other Security Agencies through capacity building, procurement of civil disorder management equipment and improved welfare.

- xxii) The Security Agencies should ensure ‘watch listing’ of IMN members and other persons of security interests, whenever they are going out of or coming back into Nigeria with a view to discovering the sources of their funding, foreign contacts and other relevant and useful information.
- xxiii) The Federal Government should not ignore the touted boast by the IMN that it has its members all across the security services who feed it with counter intelligence.
- xxiv) The Security agencies aside having an effective synergy should further strengthen their intelligence gathering mechanism in respect of the activities of the group so as to ensure prompt and timely interventions.
- xxv) The Federal Government should facilitate the establishment of Community Policing in its real sense in Nigeria with a view to curbing immediately any breach of law and order in any Community.
- xxvi) The Federal Government should ensure that it develops and implement properly intelligence driven operation policies for the country.

CHAPTER ELEVEN

TOR (j) “TO MAKE RECOMMENDATIONS AS TO ACTIONS TO BE TAKEN TO ENSURE THAT ADMINISTRATIVE OR CRIMINAL RESPONSIBILITY IS FURTHER DETERMINED BY THE APPROPRIATE ADMINISTRATIVE OR JUDICIAL AUTHORITIES FOR ANY IDENTIFIED ACTS OR OMISSIONS”

11.1 BACKGROUND

Taking all the TORs together and reviewing all the facts brought before the Commission, it would become obvious that the issues involved are as broad as they also appear to be complex. Consequently, there are certain aspects of the issues and the acts of omission or commission that are clearly, because of their magnitude, sensitivity in terms of security, etc., beyond the mandate of this Commission. However, they must be addressed by the appropriate governmental administrative or legal organs. In this regard, the Commission is obliged to identify those issues or actions and recommend to the administrative and or judicial authorities for further necessary legal and administrative actions. This is what the Commission made in this section.

11.2 RECOMMENDATIONS

As to what Judicial, Administrative and Criminal actions may be recommended for acts of Commission or Omission identified above, the following measures considered appropriate are proposed.

- I. That although it is not within the mandate of the Commission and indeed, it lacks the legal competence to level criminal charges against any individual or organizations, there have appeared to us that certain acts of commission or omission

identified under several TORs above amount to criminal conduct. These include but not limited to (i) cases of violent assaults and murder by the IMN, (ii) allegations of kidnapping of young boys by the IMN for its leader, (iii) allegations of forming a parallel authority by the IMN, (iv) allegation of use of excessive and disproportionate force by the NA against poorly and crudely armed members of the IMN leading massacre of hundreds, (v) allegation of importation and stockpiling of weapons by the IMN through the agency of some Lebanese resident in Nigeria and Nigerian nationals among the IMN, (vi) the allegation of formation of a government within a government), etc. The Commission therefore strongly urges the appropriate Federal and State agencies to conduct thorough investigation to determine these and recommend the suspects for criminal investigation.

- II. It was clear to the Commission that certain agencies and officers of both Federal and State Governments had not been diligent in the discharge of their responsibilities. For instance the deployment of officers and men of the NA to carry out the Cordon and Search operations was not properly undertaken. The utter negligence or failure to record and classify casualties resulting from the operations of 12 -14 December, 2016 by the NA and the conduct of what were considered very shoddy Boards of Inquiry by the GOC 1 Div and the NA Headquarters all leave much to be desired. This calls for urgent and independent review of these acts of commission and omission to determine if these were carried

out in accordance with relevant Laws and Rules of Engagement.

- III. There is absolute need for determining if any domestic or international legal requirements were ignored or disregarded or the rules of engagement not observed or human rights and laws were violated or international obligations not observed.
- IV. Similarly the actions of the Government of Kaduna State and its officials in undertaking the burial in mass grave of 347 dead bodies would need to be assessed to determine whether or not all relevant provisions of Coroners Law of the State were fully complied with. The non-classification of the dead by sex, relative age, types of injuries/causes is an unprofessional void that runs contrary to C and S principle.
- V. The demolitions by the State officials of the Gyallesu residence of Zakzaky, the Hussainiyya Shrine, the facilities at Dambo Darul Rahma do not appear to be wholly conducted after following due process. The demolition of the premises at the Jushi cemetery where Zakzaky's mother and sister were buried and the destruction of the Fudiyya did not appear to be justified.
- VI. Oral orders are alright to kick start an operation that is as fluid as the case of the C and S. However, confirmatory orders in writing should follow soonest for intermediate and junior commanders to remain focused. This was not done and should therefore be queried and appropriate reprimand be meted out to guard against it in future.
- VII. The C and S contingents were not adequately provided with junior officer leadership. The lack of this could have led to

poor application of the Rules of Engagement, fire control record keeping and rear ward transmission of occurrences, especially when one of the commanders was put out of action from the onset.

- VIII. Maintenance of records of occurrences during the C and S was poor with respect to classifying the dead, the wounded and the arrested according to areas of operation. This could be traceable to poor officer manpower (junior leadership). The Nigerian Army should address this vital short coming.
- IX. The medical record keeping of the casualties i.e. the dead, and treated by the Depot NA Medical Centre was observed to be poor. These details are important and should be imbibed for greater efficiency.

CHAPTER TWELVE

TOR (k) TO MAKE RECOMMENDATIONS AS TO ACTIONS TO BE TAKEN, POLICIES TO BE DEVELOPED AND IMPLEMENTED TO ENSURE THAT ACTS AND OMISSIONS THAT MAY HAVE CONTRIBUTED OR LED TO THE CLASHES ARE PRE-EMPTED ENTIRELY OR, WHERE THEY OCCUR, THEIR NEGATIVE EFFECTS ARE MITIGATED IN FUTURE

12.1 BACKGROUND

This report has provided a detailed catalogue of acts of commission and omission which were identified and ascribed to parties directly connected with the clashes, individuals and several other stakeholders. It contains specific recommendations made in respect of the various acts of commission or omission. A broad range of these findings and recommendations are contained in TORs A, B, E and I.

Highlights of some of the key observations contained in the foregoing TORs are restated below to bring them into focus for the purpose of this TOR.

The frequent involvement of the NA in dealing with the menace posed by the disruptive and often criminal activities of IMN members has tended to result in avoidable violations of the rights of citizens, losses of lives and destruction of property. Perhaps due to the spontaneous nature of such clashes and a seeming deficit in the training of its men and officers to deal with civil disorders, the NA has often neglected to follow its own

rule of engagement, constitutional safeguards and international best practices.

The IMN leadership and followership have continued to pursue their activities in total disregard to constituted authorities and defiance to all lawful instructions. The IMN exists as an association not recognized in law but has continued to conduct activities including owning properties, running businesses and carrying out sundry social and economic services, contrary to Nigerian laws. Its annual treks and frequent road blockades have subjected the general public to grave hardships and adversely affected economic activities, particularly in its immediate vicinity, along the highways and across some major towns and cities in the North. These IMN activities intimidate, threaten, cause bodily harms to and have resulted, as demonstrated in some testimonies, in the murder of innocent by-standers and non-IMN members.

It has also been revealed in testimonies that the FGN has not been proactive in identifying the threats posed by and/or dealing with some disorderly or even subversive groups such as the IMN. Our diplomatic missions, it would seem, have not been helpful in tracking the movement of IMN members across borders. Many who testified before us have also concluded that FGN's failure or reluctance to implement recommendations made by similar Commissions have not helped matters.

The gravest acts of commission levelled against some of the previous governments of Kaduna State have been lack of political will to properly assess and deal with menace posed by IMN. Repeated complaints to them by affected communities went unattended. Acts of open defiance by IMN, even when directed at the Chief security officer of the State,

were often met with seeming postures bordering on appeasement or complicity. The acts of Kaduna State in the improper burial of hundreds of dead persons arising from the clashes and destructions of properties belonging to IMN have been called to question.

The action or inaction of various cadres and tiers of law enforcement and security agencies have been called to question too. The police force has generally been portrayed to have neglected or abandoned its law enforcement duties such as crime detection or investigation and prosecution where these involved the IMN. In fairness, their numbers, capacity and capability can be said to be inadequate to deal with the menace posed by the IMN. There were suggestions of lack of synergy in the way and manner the various security agencies related to one another. There were reports of intelligence failure in the way intelligence was shared, disseminated or acted upon.

12.2 FINDINGS/OBSERVATIONS

As stated in the opening paragraph, a broad range of findings and recommendations relating to acts of commission or omission are contained in TORs A, B, E and I. They may not need any re-iteration or amplification here. Suffice it to add as follows.

There is a definite need, as envisaged under this TOR, for specific and varied actions to be taken by the appropriate agencies along the lines recommended in these TORs. There is also a need to develop and implement policies similarly along the lines recommended. These should be tailored to forestall future occurrences, pre-empt them from happening and, should all these fail to prevent them from happening, design measures to mitigate the fall-outs.

Even so, it must be pointed out that most of the recommendations are actionable without much ado while policies can be distilled from many others.

12.3 RECOMMENDATIONS

At the risk of recounting or restating some recommendations made earlier in this report in respect of TOR's A, B, E & I above having regard to acts of commission or omission, we propose the following policies to be developed and implemented and actions to be taken to prevent, forestall or pre-empt future occurrences and mitigate the negative consequences of similar clashes should they occur. As pointed out above, policy options distilled from relevant recommendations could be developed and implemented to enable or facilitate such actions.

12.3.1 ISLAMIC MOVEMENT IN NIGERIA

- i. A policy of constructive engagement with IMN and similar organizations should be conceived, enunciated and widely disseminated to guide relation with it by all tiers of government, their agencies and non-governmental stakeholders including other religious organizations.
- ii. Without any hesitance, government must demonstrate the necessary political will to proscribe the existing IMN as an unregistered and unlawful association. As the example of other Shia organizations, such as disclosed in the testimonies of *At-Thaqalayn* and *Rasul A'azam*, *Shism*, as a religious confession and practice, can be observed and ought to be protected within the boundaries set and permitted by Nigerian constitution and other laws. To avoid taking such a step would send the wrong signal to other law-

abiding organizations and embolden the IMN to continue to defy all constituted authorities.

- iii. The IMN maintains an established paramilitary outfit, conducts combat training for the *Hurras* and holds provocative parades and drills. It deploys the *Hurras* who regularly mount blockades, harass entire neighborhood and enforce curfews. The State must outlaw all these activities which are contrary to law and bring the IMN and its members into constant conflict with law enforcement agencies, the local residents and innocent by-standers and travellers.
- iv. If IMN chooses to comply with existing legal requirements to register as a legal entity, no discriminatory hindrance may be placed in their path. In the spirit of constructive engagement, the state would be encouraged to facilitate any such efforts.
- v. The state must enforce its laws diligently to regulate religious observances and practices that encroach on freedoms guaranteed to all. Of particular note are the IMN's annual arbaeen trek, the Quds day processions and sundry cultural activities it frequently observes in towns and cities.
- vi. The law enforcement agencies are obliged to issue the IMN necessary permits, if and when requested, to carry out its activities in an orderly manner. As a complement, the State is obliged to collaborate with the association to provide security cover for such activities.

12.3.2 **NIGERIAN ARMY**

The NA is in urgent need to re-evaluate the content of and the philosophy embedded in its rules of engagement which pertain to its involvement in similar exercises. It urged to

retrain and re-orient its personnel to espouse and internalize the new rules.

- I. A policy must be designed or, where it exists, re-evaluated, to insulate the military from being involved in the containment of civil disorders save in extreme circumstances. Even when the need may arise for their co-option, this should be limited to providing support to the Specialized Force being recommended elsewhere in this report.
- II. Both the Kaduna State and Federal Government must establish if any crimes were committed by men and officers of the NA and officials of the State arising from the clashes. Diligent steps must be seen to be taken to hold such persons to account for their actions.

12.3.3 KADUNA STATE GOVERNMENT

- I. The necessary and appropriate political will must be summoned to deal with threats posed by the IMN and similar organizations. The state must be proactive to keep a tab on such threats, take steps to contain and forestall the disruptive activities of the IMN.
- II. While the Commission has taken note that the Kaduna State Government has vowed to act decisively on our recommendations, we urge the political leadership to keep faith with the undertaking freely made. In particular, we urge the State to implement all actionable recommendations, adopt and implement appropriate policies in a timely and diligent manner to forestall, prevent and otherwise deal with future occurrences.

- III. We urge the State to develop commensurate and appropriate capacities and capabilities for early detection of any signs of trouble which will augur for or trigger timely intervention.
- IV. We call upon the State to employ the services of the pervasive and localized services provided by the traditional institutions in intelligence gathering, mediation of potentially explosive local crises and assist in local policing.

12.3.4 FEDERAL GOVERNMENT OF NIGERIA

- I. The Commission urges the FGN to summon the necessary and appropriate political to deal with threats posed by the IMN and similar organizations. The FGN must be proactive to keep a tab on such threats, take steps to contain and forestall their disruptive activities.
- II. It is pertinent to call on FGN to heed the persistent calls made by witnesses who appeared before us to implement in a timely and diligent manner all previous recommendations made to it by similar Commissions. Specifically, we urge the FGN to implement all actionable recommendations, adopt and implement appropriate policies in a timely and diligent manner to forestall, prevent and otherwise deal with future occurrences.
- III. The Commission strongly call upon the FGN to re-assess its diplomatic relations with Iran with a view to creating an enabling environment and gain a leverage to curtail the external influences on the activities of the IMN.
- IV. The Commission calls the attention of the FGN to revisit the trial of all persons connected with the illegal importation of weapons into Nigeria by agents of the Iranian Revolutionary

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Guards, the Lebanese Hezbollah and local allies. The FGN should also conclude or reevaluate investigations carried out in connection with the discovery of a cache of assorted weapons in Kano.

- V. The Commission encourages the FGN to partner with Kaduna and other State governments to achieve the goals stated in the recommendations made above.

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CHAPTER THIRTEEN

TOR (I) TO RECOMMEND ANY MATTER FOR PROSECUTION, FURTHER INVESTIGATION OR THE CONVENING OF A SEPARATE INQUIRY TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, GOVERNMENT DEPARTMENT OR PROSECUTOR REGARDING THE CONDUCT OF A CERTAIN PERSON OR PERSONS

13.1 BACKGROUND

As can be seen from the relevant sections of this report, particularly TORs A, B, E and I, appropriate and specific recommendations have been made against identified actors for sundry acts of commission or omission committed by and/or ascribed to, for instance, tiers of government, officers belonging to security agencies, private organizations and individuals. However, there have remained a number of unresolved issues pertaining to this TOR which would require further attention as envisaged under TOR (I). Similarly, there are incidental matters not directly captured under any of the other TORs but which the Commission would wish to draw attention to and hereby makes additional recommendations to cater for them.

13.2 FINDINGS/OBSERVATIONS

13.2.1 ISLAMIC MOVEMENT IN NIGERIA (IMN)

It is evident from a review of the various observations and findings made by reference to this TOR and in the absence of any contrary views or explanations offered by IMN, the Commission was unable to verify many claims, assertions and allegations pertaining to:

- i. Certain acts of commission and omission committed by IMN against agencies and individuals,
- ii. The phenomenal growth and spread of the IMN in membership, its financial base and its reported paramilitary posture and violent disposition,
- iii. The IMN's reported possession of "weapons" which may have been concealed,
- iv. The IMN's proclaimed rebellious stance, as irrevocably enunciated in the Funtua Declaration and amplified in the inciting posture by the wife of the IMN leader;
- v. The IMN's total rejection of the Nigerian Constitution which stance is manifested in its rejection and disregard of all constituted authorities and demonstrated by the widespread defiant acts of its members and refusal to submit to agencies and constituted authorities invested with state power;
- vi. The perceived close association of IMN with the Iranian government, the Hezbollah organization and local

members of Lebanese communities and their businesses;

- vii. The IMN's source of internal and external funding and other support;
- viii. The outcome of investigations and trial of persons connected with the reported importation of assorted weapons discovered in several containers and cache of what was described as an "armoury" stored in a house in Kano;

13.2.2 RECOMMENDATIONS

1. The Commission strongly recommends that the appropriate agencies of the Federal Government should institute a high-powered inter-agency committee to carry out further investigations with a view to verifying the foregoing claims, suggestions, confidential briefings gleaned from informal contacts with stakeholders and made in testimonies before it but which it lacks the capacity to verify. It should be pointed out that, despite the Commission's best efforts, the appropriate law enforcement and security agencies were unwilling or unable to vouch or divulge any relevant information in their possession due to constraints imposed by concerns to protect state secret, classifications, diplomatic protocols etc.
2. The Commission recommends that the FG should urgently revisit or conclude investigations into the matter of the importation of arms, the discovery of a cache of weapons in Kano and the trial of persons connected to these matters.

13.3 NIGERIAN ARMY

The Commission has observed that the NA has not been forthcoming in its testimonies in relation to:

1. The dissemination and observance of its own rules of engagement and the palpable failure to follow international best practices in conducting internal security operations;
2. The way and manner it took the decision to conduct the C&S and how it was carried out;
3. How it handled the identification and documentation of casualties suffered by the IMN;
4. The cavalier and seemingly unprofessional way both the GOC 1Div and NA Headquarters conducted their boards of inquiry to investigate the clashes of 12-14 December 2015;
5. The removal and destruction of all material evidence of what happened at Gyallesu, Hussainiyya and Dambo where most casualties occurred.
6. The various roles that the NA and its men and officers played in handling the dead bodies, being casualties of the clashes, which resulted in their burial in a mass grave.

13.3.1 RECOMMENDATIONS.

The FG should establish a high-powered and independent body and vest it with appropriate mandate to:

- a) conduct a thorough investigation into the circumstances surrounding the June 2014 and December 2015 NA clashes with the IMN;

- b) re-assess the necessity and circumstances for the deployment of the NA to quell civil disturbances, riots and civil disorders;
- c) review the adequacy of the existing rules of engagement pertaining to internal security operations and bring them into conformity with constitutional stipulations and in accord with democratic norms and humanitarian best practices; and
- d) review the reports of the boards of inquiry referred to above and determine matters associated with foregoing observations and findings with a view to assigning individual responsibility and to make any other recommendations deemed appropriate and necessary.

13.4 NIGERIAN POLICE, SSS AND OTHER LAW ENFORCEMENT/SECURITY AGENCIES

The Commission has observed that there was a seeming lack of synergy in the way and manner various law enforcement and security agencies shared information or worked together or operated when confronted by events such as have occurred in the December 12- 14, 2015 clashes. The Commission has also experienced an attitude bordering on lack of sufficient concern on the part of these agencies having regard to responses it received from some of them to specific requests made.

13.4.1 RECOMMENDATIONS

The Commission recommends the following measures and steps to ameliorate the situation against future occurrence:

- a. An inter-agency body be commissioned to audit existing protocols which guide the cooperative and collaborative work of all law enforcement and security agencies with a view to making them more efficient, responsive and up to date.
- b. A review of existing laws and regulations which have imposed constraints on officers when it comes to information sharing. Without prejudice to safeguarding State Secret, a balance must be found to facilitate confidential exchanges of information on a need to know basis and subject to any restrictions deemed desirable.
- c. There is need for a review of existing protocols for the procurement, processing and sharing of intelligence among these agencies to make it more efficient and timely.

13.5 FEDERAL GOVERNMENT/KADUNA STATE GOVERNMENT – Federal and State Ministries of Justice

The testimony before the Commission has revealed that the Kaduna State Government has caused to be arraigned several IMN members before the High Court of Justice. They are being tried for the role they have played during the clashes. Despite the disproportionate casualties its members have suffered as a result of clashes presumably as a consequence of the cordon and search operations carried out by the NA, it would seem strange that not a single man or officer of the NA has been considered a suspect for their own roles during the clashes.

13.5.1 RECOMMENDATIONS

In all fairness, the Commission would strongly recommend as follows:

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1. An independent review of the roles both members of the NA and IMN played during the clashes must be carried out to determine whether there are circumstances to warrant the prosecution of persons found to have acted unlawfully or resorted to excessive and disproportionate force during the clashes.
2. A timely prosecution of all persons found implicated by such a review.

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CHAPTER FOURTEEN

TOR (m) TO INVESTIGATE ANY OTHER MATTER INCIDENTAL OR RELEVANT TO THESE TERMS OF INQUIRY WHICH, IN THE COMMISSION’S VIEW, SHOULD BE INVESTIGATED AND MAKE ANY OTHER PERTINENT RECOMMENDATIONS THAT IT DEEMS NECESSARY FOR THE PURPOSE

14.1 BACKGROUND

For this TOR, the Commission understands that it has been invited to make recommendations that would otherwise not be covered in terms envisaged by the previous TORs. In other words, the Commission seeks to draw attention to matters considered incidental to and relevant to the attainment of broad range of its objectives and intendment. Similarly it seeks to draw attention to the applicability of many of the recommendations to areas not directly under its mandate or as required by instrument establishing the Commission.

14.2 FINDINGS/OBSERVATIONS

There are various stakeholders in society who have significant roles to play to forestall future occurrence and manage some of the crises before they get out of hand. For instance, the recurrent intra-sect conflicts have often arisen between IMN members and *Darika* followers due to failure of or non-official support to local efforts and initiatives aside from IMN’s

reproachable and provocative conduct of seizures and appropriation of mosques not belonging to them. Similarly, not sufficient attention would appear to be accorded by the State apparatus and agencies to the crucial role played by traditional institutions in handling such situations. The phenomena of IMN activities and its ever-present menace, as experienced in Zaria, in particular, and Kaduna State, in general, is replicated in many other towns, cities and localities in the North. The alleged abduction of children in Bununu, Dass, Bauchi in Bauchi and Kano States destined for Gyallesu to be trained as *Hurras*, the arson murder of an innocent traveller in Bakori, Katsina State by IMN members during its annual trek to Hussainiyya (tattaki), the brutal murder by IMN members of Danmaishiyya in Sokoto, Sokoto State, the forceful seizure of a mosque in Rogo, Kano State etc, incidents which were brought to the attention of the Commission, all indicate to the pervasive nature of IMN presence and is a latent incubator for potential and multiple conflicts with the affected communities and law enforcement agencies. Except for the rare cases of the apprehension and prosecution of suspects in Sokoto, the attitude and responses of law enforcement agencies to unlawful and disruptive assemblies by and illegal activities of IMN in other parts of the country has reportedly been of lack of diligence, unconcern and neglect to check such excesses or bring suspects to account. Consequently, the Commission wishes to draw attention to the relevance of all pertinent recommendations made in this to be applicable to other communities.

14.3 RECOMMENDATIONS

1. Governments, at all levels, must consciously encourage, facilitate and empower traditional authorities, other religious organizations and civil society groups to design and implement mechanisms and

early warning and proactive steps to contain incidents and prevent escalations.

2. Such mechanisms and steps must espouse constructive engagement by the State and between or among groups.
3. While the state must be firm in law enforcement, it must also be creative in encouraging groups to adopt measures for internal regulation of religious and social activities that disrupt public order and peace.
4. Governments at all levels, including the traditional institutions, must make conscious efforts to encourage religious groups to adopt their own internal norms and regulations which will augur for mutual respect, inter-religious and intra-sect harmony.
5. The Government of Kaduna State should share all relevant recommendations with and get the Governors of Northern States to buy into these and implement them. In particular, there is need for collaborative efforts by all the States to monitor and regulate the very disruptive annual trek by the IMN.

CHAPTER FIFTEEN

GENERAL RECOMMENDATIONS, OBSERVATIONS AND CONCLUSIONS

15.1 BACKGROUND

This concluding chapter provides us the opportunity to share our thoughts on the general findings and conclusions that we have reached that are outside the terms of reference provided. The chapter, therefore, contains the general recommendations of the Commission, as well as its general observations and conclusions.

GENERAL RECOMMENDATIONS

15.2 Employment

One of the general views that came to our attention was that most of those who participated in this particular set of clashes and also in other previous sectarian crises were young, mostly unemployed and idle people. The problem of youth unemployment in Nigeria is very acute and is becoming a social time-bomb. Some of these unemployed youth, young men in particular, are graduates of tertiary institutions. By starting

with the problem of unemployment, we are not suggesting that it is the responsibility of governments to employ people. We are referring to the low capability of the economy to generate jobs, which should be a matter of public concern. Many of the memoranda and presentations we

received stressed the imperative of governments doing more to stimulate the economy so that more jobs could be created to absorb the large stratum of unemployed youth in our society. This will take them off the streets and keep them busy and useful to the society.

15.3 Responsibility of Parents to their Children:

According to the Federal Government (2014), there are 10.5 million children of primary school age who are out of school. Most of them are in Northern Nigeria and attend “*Makarantar Allo*”/*Qur’anic* schools away from their parents and engage in begging to survive. A good number of them are just neglected children who do not even attend any school at all. They, therefore, all grow up with little or no preparation for future independent life. This group of persons popularly called ‘*Almajirai*’ is another ‘time-bomb’ for the near future because they will reach their adolescence without any knowledge of any skill. It is a serious submission that Government should find the ways and means of re-orienting all parents in both the urban and rural areas on their responsibilities to their children, and discourage parents from giving away their children (particularly the boys) to marauding Mallams without any concrete arrangements for monitoring them. The efforts of the State Government to integrate the *Islamiyya* education and/or *Almajiri* system with the conventional system of education are considered commendable and should be sustained.

15.4 Enhancing Citizenship:

Building a political culture of good citizenship is important to the Nigerian project. Nigerians need to be oriented through civic training to play their roles as citizens committed to peaceful inter-communal relations, nation building and democratic values. In this regard, key stakeholders such as political parties; religious groups, students, communities and businesses need to be exposed to civic training for good citizenship.

15.5 Implementation of Reports of Commissions of Inquiry:

The Commission noted the unfortunate trend of successive governments not implementing reports of various Commissions of inquiry that have been established. So many excellent recommendations have been made in the past about how to address specific problems generated by crisis but they have not been implemented with the necessary diligence required. It is the sincere hope of this Commission that our findings and recommendations should be considered and implemented fully and diligently.

15.6 The Role of Traditional Institutions

Traditional Institutions are the closest authority to the grassroots but their roles and functions need to be re-examined to make them more proactive in ensuring the peace and the tranquillity in their areas. They should be the eyes and ears in their communities who monitor the situation and draw the attention of other relevant authorities with the mandate to act to maintain the peace, prevent violence and maintain social harmony. In this regard, there should be reflections and a policy

development initiative on how to enhance the role of traditional institutions in contemporary Nigeria.

15.7 Proliferation of Small Arms and Light Weapons

There is an unprecedented level of the proliferation of small and light weapons in the country. Following the emergence and growth of the insurgency in the North-East and the re-emergence of militancy in the Niger Delta, high calibre weapons are being imported and used by non-state actors. The result is the spread of violence and the breakdown of social cohesion in the country. This Commission therefore, recommends strongly, that both Federal and State Governments must take urgent steps to address this problem of widespread and unlawful possession and use of firearms to stem the tide of violence and mutual hostilities among sectarian groups and ethnic communities. In specific terms it is further recommended that all sources of illegal weapons should be traced and their proliferation checked. In addition, Government should endeavour to prevent access of non-authorised persons to military, paramilitary and police fatigues and uniforms.

15.8 GENERAL OBSERVATIONS AND CONCLUSIONS

15.9 The State of the Nation

The State of the Nigerian State has become a serious issue of concern because until the emergence of the Buhari Administration, essentially the process of governance had virtually collapsed. It appeared as if the traditional task of running the State was no longer a priority concern for

the occupants of the offices that embody State power. The tenants of such offices appeared to have disengaged from the process of running the State. The principal work they were engaged in was the process of mega looting. We believe that the time has come for the Government and people of Nigeria to place state building at the centre of the national agenda.

Without being pedantic, it is useful to remind ourselves that the state as we know it does three things. First, it extracts resources from citizens through various forms of taxation. This assumes that the State knows all those who reside in its territory and is able to track them and make them fulfil their fiduciary obligations. Many within the younger generation will be surprised to learn that there was a time when the Nigerian State tracked and monitored each adult to ensure they pay their tax. They also tracked each nomad and made them pay tax, *jangali* as it was called, on every cow they own. In addition, people were made to produce cash crops – cocoa, palm oil and groundnuts, and State institutions called marketing boards bought the produce cheaply, sold it abroad and put the profit in State coffers using it for national development. The whole structure of “Native Administration” from the ward head to First class *Emir*, *Oba* and *Obi* was moulded into an efficient system of monitoring, tracking and extracting taxes from people. That was the State that we inherited from the colonial powers.

The second role the State plays is that of using the resources it has extracted from residents and citizens to provide public goods such as security, social services and infrastructure for the welfare of inhabitants. There were demands and pressure on the State to deliver because citizens have paid their taxes and expect their resources to be used for their benefit. The available resources were not very much but they were

used more effectively to deliver public goods. There was corruption but the percentage was low. There was a time when stealing 10% of a project allocation was considered a terrible thing. The situation in the country reached a stage where billions could simply be picked from the Central Bank or the NNPC account without even pretending it was for the purpose of official engagement.

Historically, the core problem with the Nigerian State was that with the oil boom, which came to be known by its real name of oil doom, became a threat to the continued existence of the State. Those who ran the state and society lost touch with the fundamentals of Statecraft. The State was getting enormous inflows from petroleum rent and did not need the people any more. The immediate result was the loss of the tradition and knowhow of monitoring the people and extracting resources from them. Agriculture lost its significance. Former Head of State General Gowon could even say that our problem was not money but how to spend it. We ran from the Gambia to Jamaica looking for small nations to give money to. We neglected agricultural production and started massive imports of rice, flour, frozen Argentinian beef and what Nigerians call mortuary fish. To crown it all, we became the top importer and consumer of champagne in the world. We thought we had become a great nation not knowing we had lost our State, our, Nation, our Country. It was in that context that we lost the path to national development.

The third role the State plays in society is that of regulation, making laws for the good governance of the country and sanctioning those who breach the laws through the judiciary and law enforcement agencies. Thanks to thirty years of military rule, interjected with equally bad civilian rule, the objective of our laws became reduced to its repressive elements. The governing classes systematically engaged in reckless law

breaking practices and the people followed in copying them. Increasingly, no one was ready to obey the law and gradually, the State itself lost the capacity to enforce the law. It was in this context that the imperative of rebuilding the State arose regularly in our deliberations.

One of the key principles of democracy is that those who govern are regularly held accountable to the citizens on whose behalf they exercise power. Accountability is the processes and procedures through which citizens and those who exercise responsibility on their behalf engage the process of assessing and enforcing governance. In constitutional democracies, the accountability of those who hold office to the citizenry is based on the mandate given by the electors to those they elect to parliament or to the executive branch of government. Citizens have the right to withdraw the mandate by not re-electing the person or recalling the person from office when they feel dissatisfied with the account rendered. For public office holders to be held accountable, citizens must know what they are doing. It is for this reason that accountability can only happen when there is transparency of governance processes. Transparency and accountability therefore go together and are mutually reinforcing. They enable citizens to have a say about issues that matter to them and a chance to influence decision-making and hold those making decisions to account. Public officials therefore must perform their tasks in ways that are visible and can be crosschecked by citizens. Accountability implies that public officials are answerable for their actions and that there is redress when duties and commitments are not met. Accountability requires that standards for expected behaviour be set for those exercising authority so that they can be assessed and judged. Secondly, there must be means of checking that actions taken by those who exercise power meet the standards set. Finally, citizens

must have the means and capacity to sanction those who do not meet the standards of good governance that have been set.

Since the return to democratic rule in 1999, a number of dangerous trends have emerged that reveal we have not been on course to reducing poverty. The first is that while we succeeded in sustaining a growth rate of over 5% between 1999 and 2014, the incidence of poverty however grew over the period from 54% to 69% of the population. The gap between the rich and the poor has been widening and the number of very poor persons has been growing. Secondly, according to statistics from the National Bureau of Statistics, there is significant spatial differentiation in Nigeria's poverty profile with the North lagging behind the South. Sokoto State has remained the poorest state in the country with an 81.2% poverty rate. Other Northern states have the following poverty rates; Katsina, 74.5%; Adamawa, 74.2%; Gombe, 74.2%; Jigawa, 74.1%; Plateau, 74.1%; Ebonyi, 73.6%; Bauchi, 73%; Kebbi, 72% and Zamfara, 70.8%. The state with the lowest poverty rate was Niger with 33.8%, followed by Osun with 37.9% and Ondo with 45.7%. Others include Bayelsa State with 47% and Lagos State, 48.6%. The average poverty rate of the states in the North West geopolitical zone remained the highest at 71.4% followed by North East 69.1% and North Central, 60.7%. The record showed that poverty was least prevalent in the South West, with an average of 49.8%, followed by South-South, 55.5% and South East, 59.5%. Our development agenda must therefore address both the growing incidence of poverty and the significant spatial differentiation in its distribution. The problems of insurgencies, rural banditry and violent inter-communal conflicts in Northern Nigeria are not un-connected with these growing inequalities.

Whilst Nigeria continues to grapple with economic crisis, the population growth rate continues to soar and to change in composition. The population of young people between ages 15-34 years has increased markedly as a proportion of total adult population (15 years) creating a huge youth bulge. Of particular concern to Nigeria is the age distribution ratio. There are a higher proportion of young adults as a ratio of total adult population. Achieving our goals of national cohesion and development is dependent upon Nigeria prioritising its demographic transition. This means that we must transform the population from one characterized by short lives and large families to one with long lives and small families. We cannot achieve our objectives if we maintain our current rapid population growth, which gives us an unusually large proportion of children and adolescent dependants, and a relative dearth of working age adults per dependant. We know that young people, (particularly aged between 15-29), to be a historically volatile population that produce an increased possibility of violence in countries with low and declining capacity to educate them and provide them means of livelihood. We must therefore promote policies that will regulate a population growth rate and provide jobs for the youth.

The other dimension of our population dynamics is that Nigeria has become a country of internal migrants and settlers with a considerable part of the population settled and engaged in economic activities in parts of the country where they are considered to be non-indigenes. This process cannot be reversed and it is imperative that as part of our strategy for economic growth and progress, we abandon the settler/indigene divide. It is estimated that almost 50% of the people in Nigeria had moved from rural to urban settlements in the post-independence period. When we factor in the pre-colonial migration

patterns to current trends, it becomes clear that the great majority of Nigerians are settlers, not indigenes of the places in which they live and work and as we cannot reverse this process, we must incorporate indigeneity for all Nigerians in all localities as part of our National Vision.

15.10 On the Challenge of Security

In his definition of the State, Max Weber points out that the first rule is that the State must have the monopoly of the legitimate use of violence in society. We find ourselves in a situation in Nigeria in which private citizens have access to vast arsenals and use it against citizens and against security forces while for their part, security forces use their own arms in an illegitimate manner killing and maiming citizens in an extra-judicial manner. We know that there is no State in the world where you do not have illegal arms in the hands of private citizens but when the quantum of such arms goes beyond a certain level and such private armies are able to attack security forces at will and the response of the security forces is to turn on ordinary citizens, then the State is in question. Regrettably, this is the picture that characterized the clash between the NA and the IMN in Zaria between the 12th and 14th of December 2015.

Our Constitution defines the purpose of the state as the protection of the security of Nigerians and the pursuit of their welfare. Nigerians however know that they have to pay for their own security guards and even the bulk of the Nigerian police personnel are used to provide security, not for the people, but for individuals who can afford to pay for their services. Nigerian citizens are forced to provide their own electricity with millions of generators they purchase to power their houses and pollute the atmosphere. Nigerians go to the stream to fetch water or buy it from water vendors. The water is not potable and poisons families through

water borne diseases. The elite is able to pay for personal boreholes in their houses and the result is that they wipe out underground water sources for future generations while surface water is not captured and treated but is left to flow into the sea. Of course health and education have largely been private and the state is completely disdainful of Chapter Two of our Constitution that directs it to provide for the welfare of citizens. The summary is the complete lack of accountability.

Section 15(5) of our Constitution stipulates that: “the State shall abolish all corrupt practices and abuse of power.” What does this mean in a context in which those in control of state power use it to organise corruption. The State is supposed to be the guarantor of the rule of law and the equality of all citizens. Yet, we know that in Nigerian prisons today, there are thousands of people who are in jail because they have stolen a chicken or a goat. They are in jail because they have committed a crime against the State. Although their theft was petty and most likely due to extreme poverty, they must suffer the punishment because they have committed a crime against the State. The paradox however is that those who steal in billions were for a long time protected by the same state. The current concerted effort by the Federal Government to track and punish all those engaged in mega corruption is a very good step in the direction of rebuilding the State.

There is a significant rise and expansion of sectarian conflicts, along ethnic, religious and communal lines in the country today. The recent expansion of violence by insurgent groups, particularly Boko Haram, leading to the killing of thousands of people has been particularly unsettling. The spate of killings relating to rural banditry and cattle rustling in Central and North Western parts of the country is undermining national cohesion as it spreads to other parts of the country. Even our

cherished federal character principle, which was invented to promote inclusive governance has been largely diverted and has been used to discriminate against millions of Nigerian citizens labelled as settlers. Many States in central Nigeria such as Plateau, Kaduna, Benue and Nassarawa are at the epicentre of this phenomenon and have become killing fields. An element of this is linked to cattle rustling and violent clashes between pastoralists and farmers, which are becoming endemic. Thirdly, the militancy in the oil producing Niger Delta, which had calmed down since 2007 has flared up again, this time with even more vengeance than was the case previously. The energy and arms of the militants are now directed at economic sabotage through oil theft and destruction of infrastructure. It is clear that Nigeria is facing State crisis.

There is no doubt that the principal factor that led to this dismal security situation is corruption. The investigation going on over the \$2.1 billion arms deal presents a very glaring evidence of this fact. It is distressing to note that the security situation in the country kept degenerating even when governments at both federal and state levels claimed to be putting it as a matter of top priority and purportedly also dedicating special huge allocation to it that is not even accountable. Rather than getting hope, Nigerians only kept on moving from one level of agony to the other. As the allocations for security increased so did the agony.

The Commission took its time to review the security challenges facing the Country in these details to underscore two important things which government should take note of. First, that failure of the government and its security agencies and apparatuses in being sensitive, proactive and responsive to security challenges is fundamental reason behind the emergence of defiant groups like the IMN, Niger Delta militants and very

vicious insurgent groups like Boko Haram. Similarly, the same failure is responsible for the increase in sectarian conflicts across the country both in terms of frequency and magnitude. It was in this context that the Commission drew attention above to the implications of not implementing the recommendations of successive Commissions of Inquiry. It is this type of leadership failure that led to the kind of unfortunate incident investigated and reported here. The Commission thus, implores the Kaduna State and indeed the Federal Government to take these findings and recommendations with the seriousness required.

On a final note, the members of this Judicial Commission of Inquiry into the Clashes between the Nigerian Army and the Islamic Movement in Nigeria feel privileged and honored to be invited to serve. It has been an opportunity for us to learn a lot and reflect on the series of problems affecting the country and the path towards redress. We are all most grateful to the Governor of Kaduna State for the opportunity.

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**Hon. Mohammed Lawal Garba, JCA
Chairman**

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|----|------------------------------|---|--------------|-------|
| 2. | Prof. Salisu Shehu | - | Commissioner | |
| 3. | Prof. Umar Labdo | - | Commissioner | |
| 4. | Dr. Salihu Abubakar | - | Commissioner | |
| 5. | Prof. Auwalu Yadudu | - | Commissioner | |
| 6. | Prof. Ibrahim Gambari | - | Commissioner | |

“TOP SECRET”

- | | | | |
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| 7. | Maj. Gen. A.A. Mshelbwala (Rtd) - | Commissioner | |
| 8. | Mr. Afakriya Gadzama - | Commissioner | |
| 9. | Brig. Gen. Aminun-Kano Maude*- | Commissioner | |
| 10. | Dr. Jibrin Ibrahim - | Commissioner | |
| 11. | Mrs. Khadijah Hawaja Gambo - | Commissioner | |
| 12. | Mr. Bilya Bala - | Commissioner | |
| 13. | Mrs. Desire Diseye Nsirim CP (Rtd) - | Commissioner | |

* Note: The Hon. Commissioner attended some of the primary meetings of the Commission. However, due to his prior appointment for another National Assignment Brig. Gen. Aminun-Kano Maude(Rtd) was not able to participate in the proceedings, deliberations and decisions of the Judicial Commission of Inquiry